HOUSE OF ASSEMBLY

Wednesday 9 February 2005

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

ALTRUISTIC GESTATIONAL SURROGACY

A petition signed by 1 058 residents of South Australia, requesting the house to legalise altruistic gestational surrogacy to be performed in our reproductive medicine units and to recognise the genetic parents on birth certificates, was presented by the Hon. Dean Brown.

CITY OF VICTOR HARBOR ANNUAL REPORT

The SPEAKER: Pursuant to section 131 of the Local Government Act 1999, I lay on the table the annual report 2003-04 for the City of Victor Harbor.

EYRE PENINSULA BUSHFIRES

The Hon. M.D. RANN (Premier): I seek leave to make a ministerial statement.

Leave granted.

The Hon. M.D. RANN: The South Australian government has committed $6 million to a bushfire relief fund for the recovery of bushfire ravaged areas of the Lower Eyre Peninsula. In addition to emergency payments to assist individuals and families to deal with their immediate needs, significant payments from the fund are being distributed as grants to rural producers and businesses to assist the recovery.

The state government has waived all stamp duties and fees associated with the restructuring of mortgages necessitated as a consequence of the bushfires. We have also provided relief from state taxes and charges associated with the replacement of vehicles and equipment destroyed in the fire. On 14 January I wrote to the Prime Minister seeking his urgent consideration for the provision by the Australian government of a matching commitment to South Australia's $6 million relief fund. State and federal government officers are currently discussing this proposal.

Today I was disturbed to learn that the state government's grants to bushfire victims could be taxed by the federal government. Today I have written to the Prime Minister, John Howard, asking him to urgently intervene to prevent these grants from being taxed and imposing further hardship on people who, in many cases, have lost absolutely everything. I understand that the federal Assistant Treasurer's office has contacted my office and I hope to be able to have a discussion with the minister Mal Brough this afternoon. I am more than confident that this matter will be sorted out.

PAPERS TABLED

The following papers were laid on the table:

By the Speaker—

City of Victor Harbor—Report 2003-04—Pursuant to Section 131 of the Local Government Act 1999

By the Minister for Justice (Hon. M.J. Atkinson)—

Justice, Department of (incorporating the Attorney-General's Annual Report)—Report 2003-04

By the Minister for Health (Hon. L.Stevens)—

Medical Board of South Australia—Report 2003-04

By the Minister for Gambling (Hon. M.J. Wright)—

Gaming Machines Act 1992—Game Approval (Gaming Machines) (No. 1) Guidelines 2003

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

Rules—

Local Government—Local Government Superannuation Scheme—Term Allocated Pension.

GC GROWDEN PTY LTD

The Hon. K.A. MAYWALD (Minister for Consumer Affairs): I seek leave to make a ministerial statement.

Leave granted.

The Hon. K.A. MAYWALD: Members will recall that in July 2004 the parliament passed legislation to amend the Land Agents Act and the Conveyancers Act 1995 in relation to GC Growden Pty Ltd (in liquidation). GC Growden was a mortgage financier whose business involved pooling investors' money to lend to developers. The investments ranged between $1 000 and $100 000. The investors believed their money was safe because it was secured by mortgages over land. When the company went into liquidation in December 1996, it left in excess of $20 million in mortgages that had not been successfully discharged. While the mortgages were eventually discharged, often much less was realised than had been borrowed, because of inflated valuations at the time the mortgage was entered into and a subsequent downturn in the property market.

The amendments that were passed last year addressed several problems investors were having in claiming compensation for the losses from the Agents Indemnity Fund. One problem was that losses associated with mortgage financiers had been excluded from the fund for investments after 1 June 1995. The other problem was that the District Court had determined that the circumstances of the losses did not amount to fiduciary default within the meaning of the legislation. The legislation, passed in July 2004, provided a window of opportunity to investors to claim their capital losses against the Agents Indemnity Fund administered by the Commissioner for Consumer Affairs.

The legislation addressed the problems the investors were having and provided them with access to the fund to claim their capital losses. Claimants were given from 1 September 2004 to 21 December 2004 to lodge their claims. The amendments were widely publicised in the media, and as many as possible of the investors were contacted directly by the Office of Consumer and Business Affairs. Over 800 claims were received during this period, bringing the total number of open Growden's claims held by the Office of Consumer and Business Affairs to 1 409. These must now be assessed in accordance with the new legislation.

The amending legislation treats claims relating to investments made after 1 June 1995 as a special category. The sum of $13.5 million was quarantined in the Agents Indemnity Fund to meet these claims. If the total value of the claims exceeded this amount, each award of compensation was to be adjusted downward on a pro rata basis to preserve the fund, whilst ensuring that every investor had an opportunity to recover at least some of their capital loss. I am very pleased to advise the house that the Commissioner has advised me that the calculations performed on the claims received indicates that this ceiling of $13.5 million will not be reached. This is very good news for Growden's investors.

It means that in all likelihood they will recover 100 per cent of their capital loss from their investments.

The Commissioner has several officers working on this project. In most cases, the paperwork and calculations on each claim have to be performed by the Office of Consumer and Business Affairs because claimants have not kept records. It is likely that it will be several months before all claims have been assessed and paid. However, it is with a great deal of pleasure that I can bring this good news to investors in Growden's and to the members of this house. I make mention of the members for Davenport, Fisher, Mitchell and Mount Gambier, the Attorney-General, as well as myself, for the way in which this matter was able to be dealt with through the parliamentary process.

LEGISLATIVE REVIEW COMMITTEE

Mr HANNA (Mitchell): I bring up the 12th report of the committee.

Report received.

Mr HANNA: I bring up the 13th report of the committee.

Report received and read.

QUESTION TIME

BUSH BREAKAWAY PROGRAM

The Hon. R.G. KERIN (Leader of the Opposition): My question is to the Attorney-General. When the Attorney attended the community cabinet meeting in Ceduna on 5 May 2003, did he make a three-year commitment to provide ongoing funding for the Bush Breakaway program?

The Hon. M.J. ATKINSON (Attorney-General): I am glad that the Leader of the Opposition raises that question because I did meet with the lady who ran the Bush Breakaway crime prevention program at Ceduna, and a very good program it is too. I was impressed with that program, and I discussed it with the Deputy Chief Executive, and it was resolved that the Bush Breakaway program would be funded by the reallocation of moneys within the grant program, and that someone else somewhere in the state would miss out because Bush Breakaway had gone up the ladder and—

The Hon. R.G. Kerin interjecting:

The Hon. M.J. ATKINSON: The Leader of the Opposition recalls incorrectly. Yes, there was a cut to the local government crime prevention program but most of the crime prevention program remained on foot, and I was so impressed by Bush Breakaway that I thought it ought to go up the list, and that obviously was going to be at the expense of another candidate for funding under the local government crime prevention program. My view was that the priority in the Far West of the state was for Ceduna's Bush Breakaway program, and it was going to be funded from within that program by the reallocation of priorities.

CRIMINAL LAW SENTENCING ACT

Mr RAU (Enfield): Can the Attorney-General inform the house of the number of applications made pursuant to section 23 of the Criminal Law Sentencing Act?

The Hon. M.J. ATKINSON (Attorney-General): I can inform the member for Enfield and the house. I was astonished to hear, on ABC radio this morning, the Hon. Robert Lawson say:

> The laws the government are announcing are to give themselves powers, powers which they already have under existing legislation and I do not believe this Attorney-General has ever exercised those powers to apply for indefinite detention of someone who is unable to control their sexual instincts.

That is a quote from Robert Lawson. Section 23 of the Criminal Law Sentencing Act 1988 is the provision that authorises the Supreme Court to sentence a sex offender to indeterminate detention if the sex offender is incapable of controlling his sexual instincts.

I have just quoted the shadow attorney-general, the Hon. Robert Lawson, and he said that South Australia did not need these tough new anti-pederast laws because the indeterminate detention laws had never been used by me or the government of which I am a member. The truth of the matter is that they are already there but there is a loophole which we are going to close, and I gather the Hon. Robert Lawson may be opposing. That is, now we can get the Supreme Court to make an order to detain a sex offender indefinitely if the Supreme Court is satisfied that the offender is incapable of controlling his sexual instincts, but the loophole is that the offender can say, 'I am capable of controlling my sexual instincts. I am just unwilling to do it, and I will not undergo a psychiatric examination for the purposes of the Supreme Court's deliberations.' It is this extension that the Hon. Robert Lawson is speaking against on behalf of the Liberal Opposition. I find it hard to believe.

Members interjecting:

The SPEAKER: Order!

The Hon. M.J. ATKINSON: The Hon. Robert Lawson misled the ABC Radio audience. I did not think that what he said was correct at the time, and a simple call to the Office of the Director of Public Prosecutions established that it was wrong because, in fact, since our government was elected in March 2002, it has made 13 indeterminate detention applications, and that is more—

Members interjecting:

The SPEAKER: Order! The member for Davenport is out of order.

The Hon. M.J. ATKINSON: That is more indeterminate—

The Hon. I.F. Evans interjecting:

The SPEAKER: Order! The member for Davenport is out of order.

The Hon. M.J. ATKINSON: That is more indeterminate—

The Hon. I.F. Evans interjecting:

The SPEAKER: Order! The member for Davenport is warned.

The Hon. M.J. ATKINSON: —detention applications than have been made by any previous government.

Ms Chapman interjecting:

The SPEAKER: The member for Bragg is warned.

The Hon. M.J. ATKINSON: It is improper to name the victims of sexual offenders, but I will provide the house with one example of a sex offender who was the subject of a successful section 23 application. Does anyone in the opposition remember Mark Erin Rust? Obviously, the shadow attorney-general, the Hon. Robert Lawson, does not remember him. Members should be aware that Rust was convicted of two brutal murders of young women. He is serving life sentences for those murders.

Mr HAMILTON-SMITH: Sir, I rise on a point of order. It concerns relevance. The minister is debating the issue, putting questions to the opposition and straying right away

from the subject of the question. I ask you to let him get on with question time.

The SPEAKER: The Attorney-General has an unfortunate style in the fashion in which he raises straw men. Sooner or later one of them will catch fire in his hands. Maybe he should just present the facts.

The Hon. M.J. ATKINSON: In that case, the Director of Public Prosecutions made application for indeterminate detention of Mr Rust because it did not believe that he was capable of controlling his sexual instincts. That means that, even if Mr Rust could convince the Parole Board to release him, he would still need to convince the Supreme Court of South Australia that he was able to control his sexual instincts.

Of those 13 applications from the DPP, four were successful, three were unsuccessful, four are still before the courts and two were withdrawn. The indeterminate detention provisions are being used, even if the shadow attorney-general is unaware of it. As the Premier announced yesterday, we will close off the loopholes for those sex offenders who refuse to undergo psychiatric examination. Since the opposition is so tough on misleading the public, I suggest that the Leader of the Opposition have a talk to the Hon. Mr Lawson.

Members interjecting:

The SPEAKER: Order! The last part of the answer was gratuitous advice unrelated to the information required to answer the question.

BUSH BREAKAWAY PROGRAM

The Hon. R.G. KERIN (Leader of the Opposition): My question is to the Attorney-General. After the community cabinet in Ceduna on 5 May 2003, did the Attorney instruct his CEO Kate Lennon—not the deputy CEO, as he just told the house—to find the additional funds that would enable the Bush Breakaway Program to continue?

The Hon. M.J. ATKINSON (Attorney-General): I know that the opposition has not accepted the legitimacy of the Australian Labor Party's governing South Australia yet but, in fact, we are the duly elected government and we have a right to reorder priorities within our portfolios, so much—

The Hon. DEAN BROWN: On a point of order, that is not the issue that the leader raised in his question. It was as to whether his instruction was to the CEO rather than to the deputy CEO.

The SPEAKER: I uphold the point of order. The Attorney will address the question.

The Hon. M.J. ATKINSON: In Ceduna that day I was with the deputy chief executive. We met the lady in charge of Bush Breakaway. I was impressed by what she had to say and I told the deputy chief executive that I wanted Bush Breakaway to be the crime prevention program for the West Coast and, indeed, it became the crime prevention program, as I said, by the reordering of the program. It is almost a certainty that the deputy CEO and I went back to Adelaide and the chief executive officer was informed accordingly that it was my wish that Bush Breakaway be funded. There are two legitimate ways to do that. One is by reordering the programs within the existing local crime prevention program, and the other way is to take money from elsewhere in the portfolio in the same financial year and reorder—

Members interjecting:

The Hon. M.J. ATKINSON: No, within the Attorney-General's Department, and reorder our priorities. Governments do it all the time. It is transparent, and that is how it should have happened.

The Hon. R.G. KERIN: As a supplementary question, given the Attorney's explanation to the house now, will he explain why Bush Breakaway was actually listed as an agenda item for discussion in his meeting with Kate Lennon three days later on 8 May 2003, and what was the nature of the discussion of that particular agenda item?

The Hon. M.J. ATKINSON: I have a vivid memory of Bush Breakaway, for this reason: that the lady—

Members interjecting:

The SPEAKER: The honourable member for MacKillop. The honourable member for Morialta. The member for Davenport will be on his bike next time.

The Hon. M.J. ATKINSON: We met on the foreshore in Ceduna and the lady who was running the program reminded me that I had doorknocked her when she lived in Beverley in my electorate.

Members interjecting:

The SPEAKER: The honourable member for MacKillop, for the last time.

The Hon. M.J. ATKINSON: Touche!

The Hon. R.G. KERIN: On a point of order as to relevance, the question was nothing to do with what he did in Ceduna. It was on his recollection that he had actually discussed this with the deputy CEO and not the CEO.

The SPEAKER: The honourable leader does not have a point of order, in that the Attorney-General is relating to the house the background against which he can recall the process by which he obtained the information and advice and made his instructions to the department, for the benefit of the house, albeit gratuitously. It is nonetheless relevant to the thrust of the inquiry. The honourable Attorney-General.

The Hon. M.J. ATKINSON: When we left the meeting with the lady—and I will take a stab at the member for Heysen's interjection: I think her name was Mrs Holland—members will be pleased to know that the deputy CEO and not I was driving the car. We came back to Adelaide and I asked if it were possible for Bush Breakaway to be funded under the local crime prevention program, because it seemed to me like a very good program. It is entirely legitimate for a minister to do that, and I remember it because it was comparatively rare for me to make any suggestions about the spending of money in my portfolio, other than about the Crown Solicitor's Office and the DPP, because I trusted my chief executive, in accordance with the Public Sector Management Act, to manage the finances of the department, and my priorities were changing the law of this state, in particular the criminal law, in accordance with the undertakings I had made in eight long years of opposition.

I notice no criticism from the opposition about how I have carried out my program of changing the law—a matter which Ms Lennon confirms in her testimony to the two parliamentary committees. Bush Breakaway was so high in my mind that—the Leader of the Opposition will notice from my interview with the Auditor-General—when we were discussing any occasions on which I may have asked the chief executive to re-order priorities within the department, it was one of two cases I mentioned.

GAWLER HEALTH SERVICE

Mr O'BRIEN (Napier): My question is to the Minister for Health. How much additional funding has the Gawler

Health Service received this financial year; and is it adequate to prevent any cuts to services?

The Hon. L. STEVENS (Minister for Health): As part of the mid-year budget review last year the Gawler Health Service identified a projected budget shortfall of $630 000 for the current financial year. In November 2004, the state government announced a $71.5 million boost to country health over the next 4½ years. The Wakefield region, which is responsible for the funding of the Gawler Health Service, received an additional $1.55 million for this financial year. Of this, the Gawler Health Service received $500 000—that is almost one-third of the entire amount allocated for the entire Wakefield region.

In early December 2004 the chair of the regional board was informed by the regional general manager of Wakefield Health that an additional $130 000 would be made available to the Gawler Health Service, on condition that the service implement all possible efficiency measures before this additional funding be made available and that there be no service reductions for 2004-05. The Gawler Health Service board has been aware of this information since December 2004 and remains committed to working with the Wakefield region to ensure the best services possible for the people of Gawler and surrounding areas. The chair of the Gawler Health Service board Mr Peter Ryan was quoted in *The Gawler Bunyip* on 22 December 2004 as saying:

> We got what we needed and slightly more than we expected. It has put us in a position where we don't have to cut services.

I am very pleased to put this on the record. I was very puzzled to hear the member for Light's grievance speech earlier this week; and I trust this now clarifies the matter for the honourable member and the rest of the house.

CROWN SOLICITOR'S TRUST ACCOUNT

The Hon. R.G. KERIN (Leader of the Opposition): My question is to the Attorney-General. Will the Attorney-General explain why $350 000 of local crime prevention funding, some of which was ultimately used for the Bush Breakaway program, was transferred to the Crown Solicitor's Trust Account on 25 June 2003—the very day he issued a media release stating that he had found the money to continue the program.

Ms Chapman interjecting:

The SPEAKER: Order, the member for Bragg! The Attorney-General has the call.

The Hon. M.J. ATKINSON (Attorney-General): Let me be quite clear on this. Neither Ms Lennon nor Mr Pennifold ever informed me about any aspect of the Crown Solicitor's Trust Account. That is what I have maintained. On Ms Lennon's own evidence, she did not even call the Crown Solicitor's Trust Account the Crown Solicitor's Trust Account in my presence. On her own evidence, she referred to it as 'preserved funds'. Ms Lennon has said it was never an issue because, according to her, she was not doing any wrong. That is why, in her words, it was never an issue that she raised with me. When on the rare occasion I asked my chief executive to re-order spending priorities, I expect her to do it lawfully. As to the details of how Bush Breakaway was funded, I will get an answer for the Leader of the Opposition.

The Hon. R.G. KERIN: I have a supplementary question. That being the case, and with the Treasurer's Instructions as they were about the transfer of funds, did the Attorney not think it strange that money from the previous year was going to be transferred into the next year and not returned to Treasury?

The Hon. M.J. ATKINSON: The Leader of the Opposition attributes to me knowledge which no minister could possibly have had in the circumstances. I am well aware of Treasurer's Instructions, and I expect my chief executive to manage the department in accordance with Treasurer's Instructions and in accordance with the Public Finance and Audit Act. There is a finding by the Auditor-General that she did not do so. But there is still no culpability or guilt attached to a minister asking for a program to be restructured so that a good and worthwhile crime prevention program (which Bush Breakaway is) is funded.

I discussed it with the Auditor-General at our interview, where I gave sworn evidence. The point is that, when I ask for a program to be reordered so that another project has priority, it can then be done within the crime prevention program by funding Ceduna Bush Breakaway—

Members interjecting:

The SPEAKER: Order!

The Hon. M.J. ATKINSON: —rather than another program—another local crime prevention program anywhere in the state—or it can be done by reordering priorities across the whole portfolio within the same financial year. That is how I expect my chief executive to do it; if she did not, that is on her head.

Members interjecting:

The SPEAKER: Order! The deputy leader is out of order. The Minister for Administrative Services is also out of order.

WHEELCHAIR ACCESSIBLE HOUSING

Ms THOMPSON (Reynell): My question is to the Minister for Housing. How is the government assisting people requiring wheelchair accessible housing?

The Hon. J.W. WEATHERILL (Minister for Housing): I thank the honourable member for her question, and I also thank her for representing me on Wednesday 3 February at the opening of a housing program that was a tremendous collaboration between the Wheelchair Accessible Community Housing Association, the South Australian Housing Trust and the South Australian Community Housing Authority. This project came about through SACHA and the trust agreeing to undertake a joint development for a total of 10 two-bedroom houses on trust owned land at Mortimer Terrace, Brighton.

SACHA managed the design and construction of these unusual steel and masonry framed houses, which were designed by Michael Pilkington of Phillips/Pilkington Architects in consultation with the Wheelchair Accessible Community Housing Association. Six of the units will be managed by WACHA, and the trust has acquired the remaining four houses designed to meet the trust's adaptable housing requirements. The development is located south of Sturt Road and is close to local and regional shopping, recreational and community facilities and has good transport links. This is an ideal configuration for housing of this sort.

The Wheelchair Accessible Community Housing Association is currently responsible for tenancy management of over 100 dwellings and provides accommodation services primarily for wheelchair dependent and other low income, eligible people. Part of its support for tenants includes liaison with all carer support agencies and allied agencies linked to the tenant management. I was very pleased to see the

collaboration amongst these agencies. I understand that the member for Reynell has also had discussions with the association about potential opportunities in her electorate. It is a small lesson to ministers that, when they send a backbencher to represent them at an event, there is likely to be an outcome of that sort, but good luck to her. There is a massive need across the community for expansion of this housing, and we fully support their efforts.

BUSH BREAKAWAY PROGRAM

The Hon. R.G. KERIN (Leader of the Opposition): My question is to the Attorney-General. Why did the Attorney personally sign a cheque for the Bush Break Away funding in September 2003? Did he not realise that a cheque written out in 2003, out of money from the previous financial year, was against the Treasurer's Instructions? On 8 September 2003 the Attorney told Adelaide radio station 5AA 'I've just signed the cheque for the Bush Break Away program in Ceduna.'

The Hon. M.J. ATKINSON (Attorney-General): I support the Bush Break Away program; I think it is a good thing for Ceduna. I did not violate any Treasurer's Instructions. I did not violate the Public Finance and Audit Act. I did what a good minister is supposed to do and that is reorder priorities within the same program or within the same financial year. However, I will look into the matter for the Leader of the Opposition, and I will get him an answer. I am sure that the answer will disappoint him greatly by its prolixity.

EDUCATION LEADERS CONVENTION

Ms BREUER (Giles): My question is to the Minister for Education. What was the purpose of the recent Education Leaders Convention?

The Hon. J.D. LOMAX-SMITH (Minister for Education and Children's Services): I thank the member for Giles for her interest in public education and the leadership, growth and investment in our many teachers. The convention was held on 23 and 24 January and included all principals, deputy principals, directors and assistant directors from child care and schools across the entire state. That amounted to over 1 500 people as well as district directors and leadership staff from the central office. The two days gave an opportunity for leaders in the education system to get together to discuss and debate the future direction for state education. It particularly reflected the diversity of school types within our state including staff from the APY lands in the Far North, education leaders from the School of the Air, and from those very small schools in regional areas like Salt Creek and Yunta. I was also delighted to see participation from special schools like Townsend, the Youth Education Centre and the School of Languages.

The conference provided an opportunity to honour those education leaders who not only teach essential skills to our students but also play a significant role in steering education in new directions. The speakers on this occasion where Lyndsay Connors, the Chair of the New South Wales Public Education Council, and Professor Brent Davies from the UK. As the premier stated at the convention, this was a very special and historic opportunity to gain insight and inspiration to assist in investing and improving our education system over the next 10 to 15 years. He listened to the day-to-day knowledge of the challenges in the field and the government recognised that we need to anticipate changes and make programs available that will steer rather than respond to challenges in the education system. The conference, in fact, built on the 17 forums that were held across the state where over 1 500 people including teachers, parents, community leaders and some students were engaged in debating what they wanted from our education system in the future. Hearing teachers and staff talking about their vision for public education provided assistance in driving our strategic planning process. This is an important time, in fact, to consider the future of public education because undoubtedly the changes that occur in the next 10 years will be as dramatic as the ones that have occurred over the last decade.

It stands to reason that in an era of major internet and IT-type changes that they have been significant changes to the needs within schools but also challenges that we face. I think many of us would find it challenging to send a lengthy SMS message but our schools now face the problem of such things as cyber bullying using SMS and internet; these are challenges that we would not have even dreamt of a decade ago. I commend the chief executive structure because all staff were present and listened and were involved in this leadership occasion. It was an inspirational moment that both supported and endorsed the staff development and enthusiasm and inspirational forces within our leadership group.

STAMP DUTY

Mrs PENFOLD (Flinders): Will the Treasurer advise the house whether the exemption from stamp duty on the extension of mortgages and replacement vehicles for Eyre Peninsula fire victims will extend to the purchase of replacement houses, and will the stamp duty exemption be affected by the receipt of the $10 000 funding provided by the state government? One of my constituents, whose home and fences were completely destroyed, has been advised that, because he received $10 000 immediately after the devastating Black Tuesday fires, he is ineligible for stamp duty relief on a home he needs to purchase.

The Hon. K.O. FOLEY (Treasurer): As has been acknowledged on both sides of the house, this matter has been handled in a bipartisan manner, not to score political points. I will—

The Hon. W.A. Matthew interjecting:

The SPEAKER: Order! The member for Bright is out of order.

The Hon. K.O. FOLEY: I was on leave during those tragic fires and was not acting in my capacity as Treasurer during that period, so I am not fully briefed on everything that occurred at the time as I was not the person making those decisions. I will immediately seek advice from my department on that matter. As all members know, as Treasurer I have very widespread and significant ex gratia powers which can be used. I will look at this matter immediately so I can have the details, and we will look at it within the hour.

Mrs PENFOLD: I have a supplementary question. Will the Treasurer advise whether exemptions from other state fees on that same house could be looked at the same time, namely, the development plan and the building rules and the construction industry?

Mrs Geraghty interjecting:

The SPEAKER: Order! The member for Torrens does not need to give assistance to the Treasurer.

The Hon. K.O. FOLEY: I did not hear the full details of the member's question. I will have a look at it. The government responded immediately with a $6 million package, the substance of which was quite significant. I do not think there has been any complaint from members opposite about the quantum that was immediately agreed to by the Premier and the then acting treasurer. Right through this terrible tragedy, the government has acted swiftly and with compassion, generosity, care and concern for each and every individual affected by these tragic fires. I do not have the answer to the specific details of the member's questions, partly because I was not on duty at the time and, secondly, because of the import of the question, I do not want to give an answer which is anything but completely accurate, and I cannot do that until I have the details in front of me.

GLOSSY BLACK COCKATOO

Mr CAICA (Colton): My question is for the Minister for Environment and Conservation. What action has the minister taken to protect the nationally endangered glossy black cockatoo?

Members interjecting:

The Hon. J.D. HILL (Minister for Environment and Conservation): I am glad that there is such a good bunch of glossy black cockatoos on this side of the house. There are 300 glossy black cockatoos left in South Australia, different from the red tailed and yellow tailed. They are confined to limited areas on Kangaroo Island, as the member representing that area would know.

The KI Council recently rejected a proposal for development at American River because the clearance associated with the proposal would have posed a threat to these birds. The proposed area includes remnant drooping sheoak trees which provide feeding for the nationally endangered cockatoo. The trees on that property have been judged as 'priority A' feeding habitat for these birds, and they are the subject of a recovery program on the island.

I am seeking legal advice with a view to joining legal action to stop the proposal to clear this important native vegetation. We in this state have lost many species of birds, animals and plants because of extensive land clearing. Broad scale land clearing has been stopped now in South Australia but we still have smaller patches of native vegetation that are under threat. The glossy black cockatoo has disappeared from the South Australian mainland and there is only a small population of the birds on Kangaroo Island, and we must retain habitat for these precious birds. The South Australian government is committed to stopping the loss of native species and, indeed, protecting this particular endangered species.

RURAL AND REGIONAL SA STRATEGIC PLAN

Mr WILLIAMS (MacKillop): My question is to the Minister for Agriculture, Food and Fisheries. Has the government established a task force in partnership with the South Australian Farmers Federation to develop a strategic plan for rural and regional South Australia? On 30 March 2004 in Rundle Mall the Premier accepted a report prepared by Dick Blandy and the South Australian Farmers Federation titled 'Triple Bottom Line for the Bush'. The report's single key recommendation called upon the government to establish a task force to develop a strategic plan for rural and regional South Australia, and to present that plan to the Premier by 16 July 2004. The opposition was led to believe that it would be represented on that task force but 10½ months later has heard no more.

The Hon. R.J. McEWEN (Minister for Agriculture, Food and Fisheries): This also allows me the opportunity to satisfy the undertaking I gave yesterday in relation to tabling a number of plans. The simple answer to the member for MacKillop's question is that the South Australian Farmers Federation is involved at a peak level in terms of the Export Council, and is also represented on the other two peak bodies which are collectively—

The Hon. W.A. Matthew interjecting:

The SPEAKER: Order, the member for Bright!

The Hon. R.J. McEWEN: The problem they have is that we have actually done far more, and they do not want to hear about it. I must admit that yesterday I made a mistake in assuming that those opposite were following what was happening in this state and, particularly, following what was happening at each of these industries. I assumed—

Mr BRINDAL: I have a point of order, Mr Speaker. The standing orders distinctly call for the minister, in answering a question, to address the substance of the question. It is not an invitation for him to cast snide remarks about members of the opposition, or to cause the house to become disorderly by his inattention to the standing orders.

The SPEAKER: Notwithstanding the gratuitous advice the member for Unley has provided, may I remind him and his colleagues that their contribution to the distractions to which he has referred do not go unnoticed.

The Hon. R.J. McEWEN: The point I was making was that I have regularly briefed the Leader of the Opposition and the shadow minister on all the matters relating to the question that I have now been asked by the member for MacKillop. I had assumed, and obviously wrongly assumed, that other members opposite, including the wannabe minister, the member for Schubert, were following these developments with industry. The answer is that we are intimately involving the South Australian Farmers Federation as industry leaders in a whole range of plans that underpin wealth generation from the primary industries sector in this state. I said yesterday that I would table for the house a number of those reports. I now table this afternoon: Wine: A Partnership 2005-2010; Beef Industry Strategy 2005-2015—

An honourable member interjecting:

The Hon. R.J. McEWEN: Yes, the very reports asked for by SAFF, in which they were involved. Further reports tabled are: the South Australian Goat Industry Strategic Plan 2010—this will certainly interest the member for Schubert—the South Australian Dairy Industry Strategic Plan 2010—

Mr VENNING: I rise on a point of order. Mr Speaker, I believe that the minister unfairly reflected on me by implying that the document he had was referring to me, and it was not at all.

The SPEAKER: I do not understand the point that the member for Schubert is making. Does he imply that there is any similarity between himself and a billygoat?

Mr VENNING: I heard it in that way. I believe that it was the minister's attempt to be humorous but I took offence to it.

The SPEAKER: If the minister intended it to be derogatory, he should apologise to the member for Schubert.

The Hon. R.J. McEWEN: Mr Speaker, what I was doing was tabling for your edification and that of the house the South Australian Goat Industry Strategic Plan to 2010, the South Australian Dairy Industry Strategic Plan to 2010, the

South Australian Pork Industry Strategic Plan to 2010 and the South Australian Sheep Industry Strategic Plan to 2010. These plans are all part of the general architecture—

Mr Brokenshire interjecting:

The SPEAKER: The member for Mawson had too many grumpy grumble beans for lunch.

The Hon. R.J. McEWEN: Obviously, copies will be made available to anyone who so wishes and, equally, I make the offer that, should anyone wish to have a first-hand briefing on all these strategic plans, I will make the appropriate staff available to the house, and I will do so in the near future.

In closing, I want to make the important point that there are three peak bodies under which all these detailed plans sit: the Export Council, the Premier's Wine Council and the Premier's Food Council. That is where we will engage, obviously, industry and peak bodies and the South Australian Farmers Federation, and then we will put resources under that to make it happen. Members opposite will be well aware that we have put 12 individuals out into the regions simply to implement the food plan so that resources sitting underneath the implementation of each of these plans are identified in the plans. We are getting on and doing the business because we accept the challenge. We have to grow the wealth of this state.

Mr WILLIAMS: Sir, I have a supplementary question. Notwithstanding the interesting information that the minister has just delivered to the house, does he or does he not intend to proceed with the strategic plan for rural and regional South Australia as recommended by the SAFF report?

The Hon. R.J. McEWEN: In consultation with the South Australian Farmers Federation we will do far more than that, because—

Members interjecting:

The SPEAKER: Order!

The Hon. R.J. McEWEN: Mr Speaker, I know that you and I are both interested not only in what I think is a valid question but also, more importantly, in the answer, because it is fundamental to creating the wealth we need in this state to produce the taxes to pay for the services that the people opposite keep on promising the electors of this state. I have just tabled a narrow slice of the industry plans, but sitting next to them happens to be a whole range of other plans. Under South Australian's strategic plan, things such as the infrastructure plan and the transport plan are just as fundamental to the South Australian Farmers Federation as are these industry plans. The real question for the member for MacKillop is: is the South Australian Farmers Federation also involved in that broader architecture around providing all the infrastructure that is needed to achieve this objective? The answer is yes.

However, one thing that we cannot do (and yesterday it was suggested that we should be able to do it) is influence every single factor that contributes to the value we create. One thing we cannot do is impact on exchange rates. That was one of the reasons why, in the short term, we are struggling to meet the targets. But in the long term we are confident of meeting all of them. We will do everything we can within our power. We will deal with those things within our sphere of influence. Leave those things within the sphere of concern to those opposite.

The SPEAKER: I take up the minister's offer and point out that I would, in company with members of my development board, see him about the pig industry, and I thank him for that.

EYRE PENINSULA BUSHFIRES

Mrs PENFOLD (Flinders): Will the Minister for Administrative Services advise the house whether free computers could be made available to the victims of the Eyre Peninsula bushfires from the Smart State PC Donation program?

The Hon. P.F. Conlon: Why don't you just come and talk to us?

Mrs PENFOLD: The Smart State PC Donation program guidelines exclude individuals. Given the extraordinary circumstances, it would be appreciated if they could be waived in this instance. I have been contacted by constituents who lost everything, including valuable business records and school work, and it is vital to the rebuilding of homes and farms that records are accurately maintained. However, without computers this effort is almost impossible.

The Hon. M.J. WRIGHT (Minister for Administrative Services): As the Deputy Premier has already answered, this government has taken swift action to help rebuild after this tragic event. A number of speakers on both sides of the house, including the member for Flinders, made a very eloquent contribution at the appropriate time, and we certainly went out of our way to acknowledge the great role that she played as local member. As the Deputy Premier has said, if there are any worthwhile suggestions that we can build on to assist people in rebuilding their lives, we would want to look at that. Just as the Deputy Premier said, I ask the honourable member to present these details to me and I will undertake to have a good look at them.

COOPERATIVE RESEARCH CENTRES

Ms CICCARELLO (Norwood): My question is to the Minister for Science—

Ms Chapman interjecting:

Ms CICCARELLO: You're very rude.

The SPEAKER: The honourable member for Norwood has the call. I did not hear what it was that provoked her.

Ms CICCARELLO: The member for Bragg, Mr Speaker. Will the Minister for Science and Information Economy inform the house how South Australia has fared in the latest round of grants under the Cooperative Research Centres program?

The Hon. P.L. WHITE (Minister for Science and Information Economy): I am pleased to inform the house that South Australian research organisations have secured a substantial proportion of funds from the $407 million Cooperative Research Centres (CRC) program. The CRC program links researchers and industry to focus R&D efforts on commercialisation and technology transfer, and the state government is pleased to have provided financial and in-kind support—

Members interjecting:

The Hon. P.L. WHITE: It's not all. The government has provided in-kind support to South Australian-led CRC applications. In the latest selection round, 16 CRCs were awarded funding by the federal government, and South Australian research organisations will participate in eight of those (so, half of those CRCs), with total research funding of $219 million over seven years from 2005-06, of which at least $60 million will be received in South Australia. Two of

the eight successful CRC grants will be based in South Australia. The CRC for Contamination Assessment and Remediation of the Environment, with the involvement of the EPA, will develop monitoring tools for a range of pollutants, and the CRC for an Internationally Competitive Pork Industry, with the involvement of SARDI, will work to increase demand for quality pork and pork products to assist local producers to increase production volumes by 50 per cent by 2010.

Other CRCs will have research nodes in South Australia, including CRCs for Advanced Automotive Technology, e-Water, Beef Genetic Technologies, National Plant Biosecurity, Australasian Invasive Animals and Molecular Plant Breeding, research areas with significant strategic value to the state. The state government played a very important role supporting South Australian consortiums in their CRC applications through hosting information forums, coordinating the dissemination of information to South Australian participants, and providing $135 000 in financial assistance for the preparation of business proposals for significant CRC applications.

This outcome is part of our move towards the government's South Australia Strategic Plan; the science, technology and innovation targets for exports; fostering creativity and collaboration to achieve $7.5 billion in food exports by 2013; and the presence of at least 40 per cent of all CRCs, major national research facilities and centres of excellence here in South Australia within five years. I congratulate all the South Australian consortiums that have won grants in this latest round in the CRC program and wish them well in their planned research programs.

LAND TAX

Mrs PENFOLD (Flinders): Can the Treasurer advise the house why State Revenue is sending land tax bills to widows and widowers immediately after the death of a partner when they continue to live in the principal place of residence? A constituent has informed me of instances where widows and widowers have been issued land tax bills after the title of their residential property was changed following their partner's death. The constituent is very concerned that elderly people are paying the tax unwittingly, not realising that their principal place of residence is exempt.

The Hon. K.O. FOLEY (Treasurer): The principal place of residence is exempt, so I am not sure, at the very end of that question, about someone paying a land tax bill—

An honourable member interjecting:

The Hon. K.O. FOLEY: Can I answer the question; or do you want to answer it for me? It is your call. I have better things to do with my time than try to answer a question you would rather answer for me.

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: I am happy to answer the question, unless you would rather answer it for me.

The SPEAKER: The Treasurer will ignore interjections.

The Hon. K.O. FOLEY: Thank you, sir. I am trying to answer the question, if the opposition will allow me. The last part of the question suggested that a widower may have paid a land tax bill on their principal place of residence by mistake. I will get that checked. Clearly, mistakes will happen on a database of some 120 000 or 130 000 people. I suspect, if we go back over decades with Revenue SA, from time to time errors have occurred.

Mrs Geraghty interjecting:

The SPEAKER: Order! The member for Torrens does not need to assist the Treasurer.

The Hon. K.O. FOLEY: It would not have been done deliberately; it would not be done through a lack of sensitivity. If it has occurred, I apologise: it would have been an error. Particularly MPs with databases, I am sure there have been situations from time to time where MPs have written to people where a partner may have passed away. Errors happen—

Mrs Penfold interjecting:

The Hon. K.O. FOLEY: Well, the member for Flinders said that this is happening regularly. I would like her to provide me with those details. I will seek a response.

The Hon. W.A. Matthew interjecting:

The Hon. K.O. FOLEY: In a perfect world errors would not happen, but I think it would be a fair judgment by me that similar errors occurred under the previous administration. I defend Revenue SA as a department under my control; its staff are very diligent, hardworking, well meaning, decent public servants.

Mrs Penfold interjecting:

The Hon. K.O. FOLEY: Of course I will do something about it—like I do each time the member for Flinders asks me a question.

VACSWIM

Mr KOUTSANTONIS (West Torrens): My question is to the Minister for Recreation, Sport and Racing. What water safety strategies have been adopted to ensure participants are safe during the vacation swimming programs?

The Hon. M.J. WRIGHT (Minister for Recreation, Sport and Racing): As members would be aware, the Vacswim program run by the government provides participants with opportunities to develop a range of skills and positive experiences in the areas of water safety. It is a very important program. It has a proud history under both parties. Obviously, it has been going for quite some time. Invariably it is conducted at school pools, public and private pools, lakes and beaches throughout South Australia. The government has worked closely with agencies and volunteer groups to maximise safety levels. Obviously, that is an important facet of this important program.

I report to the house that Vacswim 2005 had approximately 22 000 children participating—certainly an outstanding number. These children participated at 45 beach locations and 121 pools across South Australia. LeisureCo, which managed the program, used the Royal Surf Life Saving Association of South Australia and Surf Life Saving South Australia to help deliver the program. The government organised beach venues across the state to have extra support from Surf Life Saving SA through extra life saving personnel and also by staffing all centres by appropriately qualified and experienced instructors. The Sea Rescue Squadron had its craft on the water, and the coastguard also offered support with its vessels. The aerial beach patrol, staffed by volunteer air observers and operated by Aldinga Aero Club, covered the metropolitan beaches for the Vacswim program.

On behalf of the house, I acknowledge the efforts of all the organisations and, in particular, thank their volunteers, who helped to ensure that the safest possible circumstances were provided for our children to learn to be confident and competent in the water. The government certainly appreciates the role that all the volunteers played, and a number of

stakeholders were involved. To have a program in which 22 000 children were involved is something of which we can all be extremely proud.

ADOPTION SERVICE

Mrs REDMOND (Heysen): How does the Minister for Families and Communities propose to address the problem created for couples who will be unable to proceed with adopting children from India, Thailand and Taiwan? Last week, the minister announced that the private organisation, Australians Aiding Children Adoption Agency, will have its functions taken over by the department from 1 April this year. However, at least one country (India) has immediately withdrawn from the process, as the director of the only orphanage with which South Australia has a relationship refuses to deal with a government agency. Two other countries (Thailand and Taiwan) have indicated that they are likely to follow suit.

I have been contacted by adoptive parents whose adoption processes have thereby been threatened, including couples who have adopted a child from one of those countries, are part way through the process of adopting another and believe that their adoptions may not now proceed.

The Hon. J.W. WEATHERILL (Minister for Families and Communities): The warning I gave yesterday, about checking facts before making allegations in the house that are likely to disturb and distress a range of vulnerable people in our community, went completely unheeded. I preface my remarks by saying this.

Members interjecting:

The SPEAKER: Neither I nor the minister needs the assistance of the Minister for Infrastructure to hear or obtain the answer; in fact, it is unhelpful.

The Hon. J.W. WEATHERILL: I want to say two important things by way of a preface to my remarks. First, a number of applications are part way through being handled, so it is important that we ensure that those parents (who at the moment are caught up in a bit of campaign, to be frank) are assured that there will be a smooth transition and that their applications will be dealt with smoothly. Secondly, there is a transitional process during which time I seek to work closely with the agency to ensure that we can achieve this transitional arrangement. I hope that what I say now does not inflame the debate further, but it is just some factual material. Seventy-one adoption agencies in India are involved in intercountry adoptions, one of which, as I understand it (by way of the media and implicit in the question), has expressed concerns. It is our intention to work closely with that agency to ensure that we can meet its concerns and make sure that there is no disruption to the process. I do not think it assists matters for those concerns to be talked up, and I do not think that is in the interests of any parent who is part way through the adoptive process. I think that is the first thing we should bear in mind, but the second is that there is a loss of perspective in this arrangement. This is an adoption act, the primary concern of which is to ensure that the interests of the child are paramount. As a state government minister, I have a responsibility to administer that act. The conclusion I have reached as a matter of policy is that the way in which I can best ensure that those obligations are met is by this service being provided in an insourced fashion.

I did not reach that conclusion lightly or happily, frankly, because I knew that there would have been a range of parents who would have had good experiences in adoption. One only needs to think for one moment that, if you have been the subject of a successful adoption and you have a new child in your life and you have created a family, in many cases, after years of anguish, it must be the happiest time in your life. I am not surprised that this agency has a range of people who are prepared to speak up in its favour. But I have been satisfied on the basis of the material I have seen and on the basis of that information that that is the best course.

Mrs REDMOND: My question is to the Minister for Families and Communities. Was the minister's decision to cancel the government's relationship with the organisation Australians Aiding Children Adoption Agency based on any recommendations of last year's review into adoption?

The Hon. J.W. WEATHERILL (Minister for Families and Communities): Yes; it was, sadly. It was based on a range of material contained in those reviews. Unhappily, the South Australian service has the highest proportion of placement breakdowns and the highest rate of child protection notifications of any other service in Australia. Indeed, over the last 12 months of the last calendar year, of the 60 placements that occurred, there were eight child protection notifications running at something like 13 per cent which is concerning. That, of course, was not the only factor I took into account. I have taken into account a range of information and my own impressions about what is an appropriate policy stance for a state government agency in relation to the adoptive process. In my view, this is not a service that should be outsourced. I know that an ideological position has been put against this proposition. We have the member for Heysen saying that she is unaware of any government agency that can do things as efficiently as a non-government agency.

The Hon. P.F. Conlon: That is why they sold ETSA.

Ms Chapman interjecting:

The SPEAKER: Order, the honourable member for Bragg!

The Hon. J.W. WEATHERILL: I think the Minister for Energy—

Members interjecting:

The SPEAKER: Order, the honourable members for Bright and Mawson!

The Hon. J.W. WEATHERILL: I think the Minister for Energy would have a slightly different perspective on the relative efficiencies of certain areas of the state public sector and the private sector. That is ideological nonsense. It is a question of looking at each particular service. We have introduced long needed reforms to our child protection system. We stand proudly on our credentials of putting the safety and welfare of children at the centrepiece of government policy. That has meant that we have had to reflect on adoption arrangements in that light.

Mrs REDMOND: I rise on a point of order. I take it that the minister has now finished his response but, in fact, he had strayed well into the area of debate and was addressing issues that clearly had nothing to do with the question asked.

EYRE PENINSULA BUSHFIRES

The Hon. M.J. WRIGHT (Minister for Administrative Services): I seek leave to make a brief ministerial statement.

Leave granted.

The Hon. M.J. WRIGHT: In regard to the question asked by the member for Flinders, my department has just advised me that, upon application, DAIS will provide a PC from its available stocks for anyone who was fire-affected. In relation to the particular inquiry to DAIS by the member for Flinders, I have also been advised that DAIS is in the process of supplying a PC to that person.

ENVIRONMENT PROTECTION (MISCELLANEOUS) AMENDMENT BILL

The Hon. R.J. McEWEN (Minister for State/Local Government Relations): I seek leave to make a personal explanation.

Leave granted.

The Hon. R.J. McEWEN: Yesterday, in his second reading contribution in relation to the Environment Protection (Miscellaneous) Amendment Bill, the member for Morphett said:

They—

meaning the Local Government Association—

had no idea what this government was doing. In fact, this government had no idea what was going on. I asked the Minister for Local Government this afternoon—

I presume the member was referring to the Minister for State/Local Government Relations—

'What the heck is going on? The Local Government Association doesn't know that you're debating this this afternoon.' He did not know.

That statement is totally and utterly inaccurate. When I was on the stairs, coming into the house, as the member for Morphett passed me he asked me whether I knew what was in the February newsletter, and I said, No, I do not.' So, the member has quoted me referring to the February newsletter, implying that I did not know what was going on more generally in relation to local government and the debate in this house. Yet both he and I, along with the minister and the Hon. Iain Evans, had in our possession an urgent facsimile from the Local Government Association signed by a person the shadow minister describes as 'this bureaucrat' about whom he said, 'Why can he speak on behalf of the executive and the other members of the local government group?' This bureaucrat happens to be Brian Clancy, the Director of Legislation, Infrastructure and the Environment. The shadow minister knew that this facsimile existed because he quoted from it selectively in his contribution. Lo and behold, however, he left out the one crucial line, which said, 'On this basis, the LGA is not opposed to progression of the bill in the House of Assembly.' He has totally misrepresented me and the Local Government Association and chose to quote selectively from the LGA's facsimile to the member for Morphett and to others.

COMMUNITY CORRECTIONS

The Hon. J.D. HILL (Minister for Environment and Conservation): I table a ministerial statement in relation to Community Corrections made by my colleague the Hon. Terry Roberts in another place.

GRIEVANCE DEBATE

PEPPER STREET ARTS CENTRE

Mr SCALZI (Hartley): Today, I bring to the attention of the house an excellent exhibition, which was launched by the Minister for Disability and which I attended, along with the member for Heysen, the Mayor of Port Adelaide Enfield, Dr Paul Collier from the National Disability Advisory Council, and many other local members of the community.

The Pepper Street Gallery is an excellent gallery situated in my electorate, and I often attend its exhibitions. I commend the Director, Cherie Donaldson, who for many years has been a great part of the gallery; Sally Patterson, the Arts Coordinator; Alexandra Cornwell, the Cultural Assistant Coordinator and all the volunteers, including the coffee shop staff of the Pepper Street Gallery, all of whom do an excellent job. It is important to note that Dr John Flett, who has contributed so much of his work for charity was recognised in the last Australia Day honours list.

However, today I want to talk about the launch of the Peace Plant. The artwork in the Peace Plant represents the culmination of the creative exploration of 26 artists with disabilities. As it says in the brochure: 'who meet weekly in workshops managed by community bridging services.' I would like to commend Freddie Brincat, the Executive Director, who does an excellent job in making sure that these artists with disabilities get recognition. I would like to mention the 26 artists and it is good to see that many of the works have already been purchased. The exhibition runs from last Friday, 4 February, until 25 February, and for those of you who have the opportunity I would recommend that you go and see the exhibition. The 26 artists are: Maria Barbaliopoulos; John Bodroghy; Valeria Burnyoczky; Tim Cannell; Marlene Cazzolato; Cecelia Clarke; Glenda Cloake; Moira Conway; Brian Coombe; Dianne Drogemuller; Paul Glinka; Kelly Gowling; Ray Guymer; Christine Hobby; Rosslyn Hobby; Elizabeth Horbury; Jasmine Jones; Jennifer Kirk; Julie Lamming; Vivienne Maynard; Neil Morris; Dana Nance; Rose O'Mallee; Tracey Power; Tracy Restall; and Lee Tisher.

These 26 artists are part of this excellent exhibition launched by the Minister for Disability and I would like to commend Burnside Council, that put so much into supporting the Pepper Street Gallery and, as I said, the coordinators, the director and all the volunteers responsible. It is important that we give recognition to artists at this level. It is one thing to look at art at an elite level, but if we are talking about community wellbeing in art we must give recognition to art at the local level, and to all groups in society. Indeed, if we are interested in community wellbeing, then sport, music and all those creative areas should be recognised.

I was pleased to be there to see the expression on those artists' faces and how proud they were of their work. Recognition is such an important ingredient to encourage contribution in our community by people of all walks of life, and I think people with disability must be given that opportunity. I commend all those responsible for creating the exhibition and to give these people that opportunity to exhibit their work.

Time expired.

TSUNAMI

Mrs GERAGHTY (Torrens): I would like to take this opportunity to speak about one of the local businesses within my electorate and their wonderful generosity in the wake of the Boxing Day tsunami. Ceylon Spices and Cargo Service is owned and operated by Keerthi Dharmabandu and his wife Sadhana, who both lost friends in the southern part of Sri Lanka when the tsunami struck. This loss prompted Keerthi and Sadhana to assist the survivors by collecting donations from the community, and to ship these donations to the affected areas via a specially hired shipping container. The response from the local community was overwhelming. Not only did *The Standard Messenger* run a first page article which gave the shipping container appeal excellent exposure, but also the amount of people who provided donations filled not just one 40 foot container but two. The fact that both of these containers were filled to the brim is a testament to how deeply people empathised with the plight of those who were affected by the tsunami.

Given that Ceylon Spices is in the same shopping complex as my own office I had a first-hand view of the container being delivered, and folk visiting the complex to make their donation. What was truly surprising was the speed at which the container filled. The first 40-foot shipping container was filled in one day, which prompted the arrangement of a second, which filled up over the course of several days. In the latter stages of filling the container, it was often the case that the staff and volunteers at Ceylon Spices would be looking for space between the various objects in it to fit something else in. In fact, our car park was brimming with people coming and going and vehicles being unloaded. Among the items that were donated were such basic items as canned food, milk powder, water, blankets, clothes, underwear, toiletries and candles. Indeed, in reading the list of items that were requested, it is disturbingly easy to realise just how much damage was done and how critical is the need in the affected area.

It is almost impossible to conceive of the reality of such a brutal devastation from the comparative luxury and comfort of Australia. However, the fact that Kheerti and Sadhana were willing to launch their own appeal and that it was responded to so well shows that, despite the level of comfort we may be fortunate enough to have, it does not mean that we have become complacent or self-interested in times of great need. It is possible to see the charitable and generous nature that is so much a part of Australian culture come to the fore through donations to this and many other appeals.

The donations collected by the shipping container appeal will go to a Sri Lankan charity named Jeevana Saviya, which translates as 'strength for life'. The charity is working hard in Sri Lanka to meet the most basic of needs as well as collecting funds for the construction of housing and the purchase of basic educational materials such as pens, paper, school uniforms and shoes. Perhaps later I will discuss the issue of school uniforms.

I would like to place on record the efforts of Kheerti and Sadhana Dharmabandu and express my respect for and admiration of their efforts as well as my sincere condolences for their own personal loss. I would also like to recognise the generosity of so many people living in our local community who gave to the appeal to ensure that those most affected by the devastation of the tsunami are better able to rebuild their own communities. During the time the first images were being broadcast across Australia my husband Bob and I sat there watching, and after a couple of days Bob said to me that he was just completely overwhelmed by it. He wandered off and I wondered where he had gone. He was at the computer making a donation through whatever services were available by way of email. I was really astounded: I had not seen him move quite like that before.

TAILGATING

Mrs REDMOND (Heysen): I rise today to comment on an issue that has arisen in my electorate. It is not exclusive to my electorate, it clearly concerns people from all over the place, but it affects a lot of people in my electorate and the electorate of the member for Kavel and people whose homes happen to be along the end of the South-Eastern Freeway and also the Southern Expressway. I refer to the issue of tailgating. Everyone has agreed that tailgating is not a good thing: it is bad driving practice and it is the cause of a lot of rear end collisions, which make up far too many of the accidents and, therefore, injuries that we have on our roads. The problem that has arisen in my electorate is that, since about October last year, I think, the police have had some new guns which enable them to measure the distance between two cars and the speed at which the cars are travelling. Basically, what is happening is that the police are enforcing what I think is just a nonsensical standard in terms of tailgating.

We all know what tailgating is: it is when someone is driving aggressively and they are too close behind the car in front. To my mind, that has to be sustained for more than simply an instant, or a moment, to be seen as aggressive driving. I am sure that we are all aware of situations when we are driving when we might for an instant come too close, but there is no actual definition of tailgating in any of our legislation. The road rule under which people are being fined is simply that of driving too close, or some other generic type of thing. But they are using this gun and the camera they now have, which says if you are within two seconds. Two seconds, when travelling at 100ks, is actually quite a distance. The difficulty is that in peak hour traffic it is virtually impossible to maintain a distance of two seconds because, as soon as you put a two-second gap between yourself and the car in front, another car slots into it and you are then in breach of the gun again, as you are going to be within two seconds.

One of the other problems that occurs—although I am not aware of the police doing any enforcement at this point—is that as you enter the freeway from any of the freeway entry points (and I am most familiar with that at Stirling, which I use on a daily basis), the speed limit to go onto the freeway is 100ks. That is the speed at which the traffic is supposed to be travelling along the freeway at that point, and the speed on the ramp is posted at 100ks. My knowledge of the way these things are designed is that it is specifically that way so that when you get to the top of the ramp—it is not an intersection but an entry ramp onto a freeway—the theory behind the 100k limit on the ramp is that if you are travelling at 100ks and the traffic along the freeway is travelling at 100ks, then you need very little more than the space of your car to slot in without disrupting the flow of traffic.

Clearly, if you come to a halt at that point, you need a much bigger gap to enable you to get in without impeding the flow of traffic if the traffic is coming down at you at 100ks an hour. Given the two-second rule that the police are currently enforcing, getting onto the freeway becomes virtually impossible, because in peak hour there is never going to be a two-second gap between your coming onto the

freeway and the traffic that has just passed you providing the gap into which you are going to slot. So, what is happening at the moment is that the police are using this camera and enforcing this two-second rule. It is an internationally accepted rule, and a sensible rule, and if I am on the open road I actually keep much more than two seconds between me and the car in front. But coming along the freeway in peak hour in either direction, a two-second gap simply does not exist for most of the time.

That is not to say that people are driving unsafely. If I am leaving a gap as long as this chamber between me and the car in front, I do not think I am driving dangerously, but at 100ks that is actually less than two seconds, therefore the police are imposing a fine. This fine is $192 a time, and what I am finding is that any number of drivers in my constituency are being hit for that fine when they have really unblemished driving records. They are not people who even have speeding fines: they have had unblemished driving records for 30 and 40 years and suddenly, without doing anything wrong, without their being conscious that they are in any way in breach of any road rule, the police are arbitrarily deciding that this is suddenly to be defined as tailgating. If members imagine it, being within the distance of this chamber is tailgating.

We all know that in reality that is not what is intended by the concept of tailgating. I believe that the government needs to look at this issue and perhaps introduce a definition of tailgating into the legislation to make clear that what we are after is the real tailgaters who are the nuisances and the danger on our roads.

Time expired.

LOCAL SPORT

Mr CAICA (Colton): During the parliamentary recess I was lucky enough to attend several sporting events. In fact, I do not need the parliamentary recess to attend those sporting events; I generally attend them anyway. As it is summer and cricket is a sport of summer, I specifically wish to speak about a couple of the local cricket clubs in my electorate and the sporting events I attended in which these clubs were participating. The first round of the Adelaide Turf Premier Division following the Christmas break featured an encounter between the Grange Cricket Club and the Woodville Rechabites. It was the Dolphins versus the Wreckers, first playing second, the battle for top spot and played at the picturesque Grange Oval. The spectators were treated to an outstanding game of cricket over two days, with the Wreckers on this occasion finishing on top.

It is my wish that, for the benefit of the Premier Division, these two teams based in the Colton electorate play off in the grand final. Both the Grange and Rechabites clubs have a long and proud history. Grange was established in 1885 and the Rechabites in 1930. Like all local sporting clubs, it would be impossible for the Grange Cricket Club or the Woodville Rechabites to operate without the many volunteers who work tirelessly to support their clubs. In this particular regard, and while many could be mentioned, I wish to highlight the outstanding contribution of Barry and May Fry, who, as a team, have given more than 100 years combined service to the Grange Cricket Club; and David Heyzer, who has served the Rechabites for many years in a number of capacities.

The other outstanding local sporting event that I was fortunate enough to attend was the recent Twenty 20 match played at the beautiful Henley Oval between West Torrens District Club and Glenelg District Cricket Club. It was several years ago—in fact, it was a few more years than several years—when the West Torrens Cricket Club determined that its future lay further west and relocated to the Henley Oval. It was based at that time at Thebarton Oval, where it had been for many years. I believe that the move was right at the time and that it has been successful. West Torrens is near the top of the ladder and the junior teams are strong, which augurs well for the future.

The Twenty 20 match was an outstanding success. Many people attended what was a showcase display of high standard cricket played in twilight conditions, with a carnival atmosphere to boot. This event clearly displayed the potential of the Henley Oval to host similar high profile community-based sporting events into the future. In fact, I will speak on that point just a little more. I hope that the sporting clubs that are located around the Henley Oval—Henley Football Club, Henley Districts Little Athletics, All Angels Netball Club and West Torrens Cricket Club—explore the possibility and the potential of that area and that facility, and that those clubs formalise an arrangement whereby the possibility of a community sporting centre is explored. I congratulate the West Torrens District Cricket Club for its professionalism and foresight in putting on this event—an event which captured the spirit of our western suburbs communities. In particular, a special mention needs to be made of the Club President John Lynch, a tireless worker, Helen Lewis, the committee, and the many club volunteers who made this match and the entire event such an outstanding success.

Local sport in the Colton area is alive and well, and it is my intention in future contributions to highlight many of the outstanding sporting clubs and service organisations based in my electorate. The Fulham Cricket Club, which is also in my electorate, plays in the Adelaide Turf Cricket Association. I have many friends who play at Fulham Cricket Club, and they are doing a fantastic job in the games they play with respect to the divisions in which they compete. Hopefully, they will play off in the finals, as well. One of the things that is very good about these particular sporting clubs is their commitment to junior competition, with many juniors playing each week.

There is not much time left and modesty does not permit me, but, if I had time, I might talk about the contribution of nine not out in a 47 run partnership by one Caica playing for the Grange F-Troop and 139 not out by a much younger Caica on a later weekend.

Time expired.

LOCAL GOVERNMENT

Dr McFETRIDGE (Morphett): I rise to grieve on some local government issues. First, I will respond to comments made in this house by the Minister for State/Local Government Relations. He has accused me of misleading this house and making a statement that is totally and utterly inaccurate. This statement in itself is totally and utterly inaccurate. Yesterday, in my second reading contribution on a bill in this place I referred to some information, which I had been given by the Local Government Association, that they had not discussed legislation before this house. I received this information during the lunch break yesterday. I had a discussion with the local government minister on the stairs before question time, before 2 o'clock. I said to him, 'Do you know we are debating this bill?'

I cannot remember his exact words, but he shrugged and said something. Again, in this chamber, I showed him—and it was highlighted in yellow highlight—the Local Government Association newsletter which stated that the state executive had not yet considered the environment protection bill. He asked, 'Where did you get that?' There is no room for any error in my mind that the minister did not know what was going on. For him to say today that I was wrong and he had in his possession and I had in my possession a fax stating that the Local Government Association agreed with this bill's proceeding is an absolute untruth.

I spoke to him at five minutes to two. The time on the top of the fax is 14.45—50 minutes later. What a miracle to have this fax before it came off the fax machine! How did he do that? I do not know. The Minister for State/Local Government Relations has a lot of questions to answer. How dare he come in here and say that I am telling untruths, when it is he who should be correcting the record and apologising.

Further, I asked the Minister for Environment and Conservation whether the Local Government Association knew about this. His reply was, 'They have had plenty of time. It doesn't matter. We're still going ahead.' I stand by the comments I made yesterday. I will be speaking to the executive of the Local Government Association to find out why one bureaucrat there could talk to another in this parliament (Brer Adams) and make decisions. It looks as though the bureaucrats are running this country.

I will not leave the incompetence of the government departments dealing with local government there, because, a few weeks ago, in my electorate of Morphett we had an absolute disaster with the management of the Patawalonga. The stormwater issue in South Australia will not go away, and this government has put a compact together with local and state government to manage it. It is a lovely compact: it says a lot but does not do a damn thing. I have no evidence that one cent of the $100 million that needs to be spent straightaway has been allocated; if evidence of that exists, show it to me, because I would be more than happy to help spend it on the Patawalonga.

Where was the EPA—bless its heart—over the weekend of this disaster? What did the City of Holdfast Bay get: recorded messages—nothing more and nothing less. It was not interested on Friday afternoon; on Saturday afternoon, we received recorded messages; and on Sunday, what did we get: absolutely nothing. Later on, the EPA put in a very token effort by dipping a container in the water to test its quality, but we have not yet heard the results. Yesterday, the head of DWLBC talked about what happened at the Patawalonga and tried to give some explanation. I look forward to reading the transcript and the report of what happened. As to the management of the Patawalonga Lake, a flyer has been issued, entitled 'Patawalonga Lake: flood environment awareness guide'. It includes an all-hours contact telephone number (8204-2004), but if you ring that number you get a recorded message. Worse still, it states: 'For information about the management of the Patawalonga Lake, visit the web site: www.dwlbc.sa.gov.au/sub/patwatch.html'. If you go to that web site, and if you search 'Patawalonga' or 'Patawalonga Lake', you get absolutely nothing.

Once again, there is a complete breakdown in the governance of this state. This government needs to hang its head in shame for the way in which it is managing stormwater. Its local-state government relationship has broken down and, with this minister at the helm, I do not think it has any future. I make no apology for what I have said, and I make no apology for sticking up for local government. It is about time this state government did something about putting its money where its mouth is.

SOUTHERN ROCYCLING

Mr SNELLING (Playford): I wish to update the house on the developments in my electorate with respect to Southern Rocycling, the recycling plant located in an industrial park bordering a residential area in Pooraka (Montague Farm Estate) developed by the Housing Trust 15 years ago. There is only a very small buffer zone, which is completely ineffective in relation to noise.

As part of its planning conditions, Southern Rocycling has the hours of operation of between 7 a.m. and 6 p.m., Monday to Friday. As I have informed the house before, it has regularly been in breach of those hours—on occasions, operating 24 hours a day. Part of its operation includes recycling scrap metal, and I am sure that if anyone in the house has ever heard the sorts of noises that emanate from a scrap metal plant they would have an idea of what my constituents have to endure—not just during the day but also in the very early hours of the morning—and it is entirely unacceptable. The operation has been given its hours of operation, which to date it has ignored.

During the parliamentary break, the news came to me from Salisbury council that Southern Rocycling had applied for an extension to its hours of operation to enable it to operate between 7 a.m. and 2 p.m. on Saturdays for a period of 12 months. I have spoken to my constituents, and I have written to the Development Assessment Panel of the Salisbury council about my constituents' opposition to this extension. My view is that, if Southern Rocycling cannot show itself to be willing to stick to its current hours of operation, they should not be extended until it can show that, for at least a period of time, it is willing to stick to them.

We have been fighting that application quite strongly. From memory, 50 or 60 objections have been made against the application. I think there is a planning issue, in that the industrial area in Pooraka is well suited to light industry, and located there are printers, warehouses and a crash repairers, the sorts of industries which, while you do not want them on top of housing, are not particularly noxious and tend to keep normal business hours. However, Southern Rocycling is a recycling plant, which, by its nature, is not really light industry (I would describe it as heavy industry) and operates longer than the normal business hours of the light industry operating in that area.

One has to question whether it is appropriate at all to have a recycling plant, such as Southern Rocycling, at Langford Street, Pooraka. Nonetheless, it is established, and its hours of operation are between 7 a.m. and 6 p.m.; it should stick to those. I do not think that the Salisbury council should give the plant an extension to those hours until it can show itself willing to comply with its existing hours.

BROWNHILL AND KESWICK CREEKS FLOOD PLAIN PLAN AMENDMENT

The Hon. P.L. WHITE (Minister for Transport): I seek leave to make a ministerial statement.

Leave granted.

The Hon. P.L. WHITE: I rise to report to members about the progress of the Interim Ministerial Brownhill and Keswick Creeks Plan Amendment Report. A ministerial PAR

to address the hazard issues associated with the one in 100 year flood event in this area was formally requested by the affected councils and the Patawalonga Catchment Board in March 2003 and initiated in June 2003. Considerations include the protection of life and property against the spread of floodwaters and the velocity of water flows in a one in 100 year flood event. New development has the potential to exacerbate flooding hazard by altering the way in which the water behaves during such an event. It is important to ensure that we do not compound the problem by not taking into account the risk factors when proposing new development in hazard areas.

As with many PARs of such a nature, interim development control was invoked to ensure a temporary holding measure was in place while the best policy position could be considered and consultation could be undertaken. This was indeed the case for the West Torrens council's PAR, entitled City of West Torrens Flood Prone Areas PAR, which had been in interim operation in this same area since 12 June 2003. In cases where an interim operation mechanism is used as a holding measure, it is not unusual to introduce the maximum level of policy control in order to discourage potentially inappropriate development activity from occurring in the interim period.

Under the Development Act 1993, upon being placed on an interim operation, the PAR must be subjected by the independent Development Policy Advisory Committee to a two-month public consultation period, followed by a public meeting. This resulted in 91 written submissions to the DPAC and 26 verbal submissions. Also, under the act, the planning minister is prevented from forming an opinion on the proposed planning amendments until the DPAC has presented its report on public and agency feedback and subsequent recommendations to the minister. The DPAC has now presented its recommendations and my department has discussed this with senior council staff for their comment—

Dr McFETRIDGE: I rise on a point of order. On Thursday 10 February under Notices of Motion, there is a notice of motion from Mr Hamilton-Smith that this house calls on the Minister for Planning and Urban Development to immediately rescind. This issue has already been debated.

The SPEAKER: None of the remarks the minister makes may anticipate debate. The honourable the minister.

The Hon. P.L. WHITE: The DPAC has now presented its recommendations and my department has discussed this with senior council staff for their comment. I have also met with representatives of residents in the subject development area and invited further submissions from them, which they have provided. Now that the government has the opportunity to more fully consider all the issues raised during the consultation process including submissions from residents, councils, the catchment board and state agencies, it is in a policy position to consider a final policy position—one that balances some of the very legitimate concerns of the residents with the potential impacts of new development.

An important aspect of the post-consultation process has been the input of the Development Policy Advisory Committee, which has provided me with advice independent of the government on the policy issues raised during the consultation process. Since receiving this advice, I have asked my department to further consult with the affected councils, the catchment board and the key state agencies to discuss the best approach to progress this process to a conclusion. I would like to acknowledge representations from local members of parliament, particularly the member for West Torrens, about this issue. I thank the member for West Torrens for his advocacy on behalf of his constituency.

Mr HAMILTON-SMITH: I rise on a point of order regarding the issue of pre-empting debate. I know this was raised a moment ago by my colleague the member for Morphett, but the notice of motion for tomorrow specifically asks the minister to consider and do what she is now telling the house she intends to do. Surely, she should be responding to the motion on the *Notice Paper* before the house tomorrow rather than pre-empting debate by seeking to, if you like, circumvent due process in the house.

The SPEAKER: What the member for Waite and the minister both need to understand is that the minister is entitled, quite properly, to tell the house at any time what the government is doing in respect of any matter whether it is on the *Notice Paper* or not through the processes of a ministerial statement. The minister cannot engage in a debate about the merits of what the government is doing or remark upon an opinion which may have been expressed, or could be expressed, by any other honourable member, even regardless of whether there is a notice of motion on the *Notice Paper,* although it is more especially pertinent in circumstances where it is on the *Notice Paper*. Ministerial statements are to provide factual information to the house about government policy and government action, not to applaud the government for what it is doing or to denigrate or question or call into question actions and opinions expressed by others. So far as I am aware, at this point the minister has not done that and I am listening carefully to what the minister says, not because I expect her to but in order to prevent it from happening so that no honourable member feels aggrieved at any time, but may I say no more or less than I do with any other ministerial statement. The honourable the minister.

The Hon. P.L. WHITE: Thank you, sir. I will be brief. I can advise that I do not intend to approve the PAR currently on interim development control in its present form. I intend to make a further announcement next week on detailed development roles in the Brownhill and Keswick Creeks flood plain area.

Mr HAMILTON-SMITH: Could I seek your guidance, sir? In your view, would it be appropriate, in light of your ruling, that the minister does the house the courtesy tomorrow morning of coming in and responding to the motion put before the house to reiterate what she is announcing today because, in effect, the announcement pre-empts tomorrow's motion. In your view, would that be a proper and appropriate thing for her to do?

The SPEAKER: It is entirely a matter for the minister. The statement of what the government is doing about a matter of concern, whether on the *Notice Paper* or not, is just that and, if it is on the *Notice Paper*, when the debate is joined by any honourable member on that notice of motion, including the member for Waite, the member of course may draw attention (that is, the honourable member for Waite) to the remarks that were made and identify elements from within the debate and the information provided as part of that debate from the statement. He may draw attention to that but it is not within the province of any honourable member or all honourable members, including the Speaker, to require the minister to deal with a particular matter at a particular time other than by substantive motion to that effect.

This motion on notice for tomorrow, namely notice of motion number one, does not direct the minister to make any response on that day. Of course, the other corollary of all this is that the honourable member for Waite, and any other

honourable member willing to second it, may pursue an urgency motion at any time. But there are other aspects of standing orders such as the way in which that course of action affects the time available for questions without notice. The honourable member for Waite I trust now better understands the standing orders by which the chair is driven to respond to this inquiry.

Mr HAMILTON-SMITH: Thank you for your guidance, sir.

MEMBER'S REMARKS

The Hon. R.B. SUCH (Fisher): I seek leave to make a personal explanation. Yesterday in another place the Hon. Angus Redford attributed a conversation in the corridor to me, which is not correct. On page 925 of the Legislative Council *Hansard* he quotes me as saying in the corridor, in relation to what was the fair work bill, 'How is it fixed?' Referring to me, he states: 'I made a couple of mistakes with my votes in the lower house.' That is not the case: I did not make any mistake with my vote. I sought to point out to the member that the government was going to introduce some amendments in the upper house in relation to that bill, which I understand the government has done. So, I want to correct that point.

The member also claimed that I had said that people who object to the payment of bargaining fees are 'bludgers and parasites'. Without delaying the house, members should look at what I did say on Wednesday 26 November 2003 in relation to a bill spoken to by the member for Davenport, where I said, 'I do not like bludgers, people who live off others.' I went on in detail to explain what I meant by that statement. Members can also refer to the recent debate on what was called the fair work bill but now has a more extensive name to see what I actually did say. I just ask members to have a look at the record, rather than rely on the obviously inadequate memory of a member in another place.

The SPEAKER: Can I say to all honourable members, without unduly reflecting upon proceedings in the other place, that there are two standing orders relevant to personal explanations. One is that the Presiding Officer of each of our chambers, in particular, in our context, the Speaker, must intervene to prevent quarrels between members, especially within the chamber. Secondly, it would be helpful to all of us, in the 12 months and a few weeks—indeed, it is almost 13 months and part of a week—to the next election that we do not engage in a tit-for-tat argument, otherwise the respect we seek from the general public will not be forthcoming, and we will descend into the mindset and framework through which other people—the people we seek to represent—view us, which is less than edifying and less than pleasant for all of us. I understand the sensitivities of the member for Fisher, and I am sure the Hon. Angus Redford will no doubt read what I have had to say and what the member for Fisher has had to say in his own explanation.

Finally, I believe that remarks made in the corridors of parliament should stay there.

THE STANDARD TIME (TRUE CENTRAL STANDARD TIME) AMENDMENT BILL

Mrs PENFOLD (Flinders) obtained leave and introduced a bill for an act to amend The Standard Time Act 1898. Read a first time.

Mrs PENFOLD: I move:

That this bill be now read a second time.

I believe that it is a matter of state pride and commonsense that we move to true central standard time. It is overdue that we get rid of the half hour anomaly that is branding us as a backwater and as out of step with civilisation. However, joining the Eastern States of New South Wales and Victoria, as proposed by the member for Mitchell, is not the answer. In my view, it would be more effective if they joined us by moving to true central standard time and that it be adopted Australia wide.

Much to my surprise, the quickest and strongest support for South Australia to move to true central standard time came from the aeronautical and marine sectors. Alan Paterson said that, since he became pilot in the Royal Australian Air Force some years ago, he has been a supporter of South Australia moving to our correct Greenwich Mean Time of 135° longitude. Incidentally, this passes through Coffin Bay, slightly west of Port Lincoln. Michael Dinon of Louth Bay operated a volunteer coastguard radio for many years and was instrumental in preventing a number of seagoing disasters. In 1994 he wrote:

> The introduction of true central standard time is a great idea so I urge you to keep plugging away at the idea in parliament and maybe you will one day get someone to take notice. I am considering not going over to daylight saving time this year and instead staying on universal coordinated time for the purpose of communicating with the seagoing public. So stick to your guns over the issue.

Andrew Maitland of Aldgate offered ample information on the need for South Australia to move to Greenwich Mean Time, which I have consistently referred to as true central standard time. He made the comment, 'The aviation industry in particular will thank you if you can get it changed.' Terry Ireland of Stirling was one of a number of people who supported three separate all-year-round time zones for Australia, that is, western, central and eastern. He further commented that those who want to be on Sydney time can live there. Margaret Blumson of Ceduna stated that she and her son have researched the issue and support a move to true central standard time. Her daughter lives in Canada, and the half hour time difference makes it so much more difficult to work out time differences.

Looking at Australia as a whole, it makes sense to have three time zones differing by one hour—that is, Eastern States one hour ahead of South Australia and South Australia on true central standard time one hour ahead of Western Australia. It is also easier for travellers to understand. As has already been alluded to, it is safer for the aeronautical and marine sectors.

In a discussion on time in South Australia in 1994, I.J. Duncan of West Lakes wrote the following:

> The time in South Australia is odd; odd for two reasons. Firstly, it shares the oddity of being 30 minutes different to its neighbouring time zone, a peculiarity it shares with just a handful of countries, viz. India, Iran, Afghanistan and Myanmar (previously Burma).

Let us refer to these as 'half hour countries'. Predominantly, all other countries (some 200) are on a one hour time difference, not half hour. Secondly, South Australia (and the Northern Territory) takes its time from a meridian that does not pass through its own territory. The meridian used (142.5 degrees east) passes through Victoria, New South Wales and Queensland—roughly from Warrnambool in the south, east of Mildura, east of Broken Hill, Winton in Queensland and Cape York in the north.

In each of the 'half hour countries' mentioned above, the half hour meridian chosen does at least pass through their

own territories. On this basis alone, South Australia takes its time from a foreign meridian and, in my view, the wrong meridian. Local time worldwide is taken from when the sun passes over the celestial meridian, the line of longitude that runs north and south through a place. The 00° longitude which runs through Greenwich is, of course, the best known of these and has become the datum for UK time and all international time—Greenwich Mean Time (GMT). As it would be impractical to have a different time zone for each town in the world, time zones were established. The World Book Encyclopedia states:

> The local time at the meridian, the line of longitude, which runs through the centre of the zone, is used by all places within the zone. This time throughout the zone is the same.

This statement from the World Book confirms the oddity of South Australia's time, for here we currently take our time from a meridian that does not pass through the zone. The normal world practice leads us to the conclusion that South Australia should change its time to be consistent with a meridian that runs through its own territory zone. This would put South Australia on the international standard of being a one hour, not a half hour zone, and put us one hour different from the Eastern States; in fact, exactly what this bill is proposing.

Further benefits identified by Mr Stan Webster of Henley Beach are that a move to true central standard time would establish a time zone relationship through to our current and future Asian trading partners. Our time would be the same zone as Tokyo and one hour ahead of Hong Kong, a sentiment, Mr Speaker, that I know you agree with. Mr Webster has been advocating that South Australia adopt true central standard time since he moved to this state from Victoria some 37 years ago. In a letter to me he concluded: 'Good wishes in your efforts to adopt true central standard time, and even nine hours ahead of GMT as I think it would be a benefit to South Australia.'

The national and international travel industries would be able to work to international standards of one hour differences. Mr Duncan suggested that South Australia on true central standard time, which would be the same as Japan, could use the slogan, 'To avoid jet lag, start your holiday in Adelaide.' He suggested that Victoria and New South Wales tourist industries could use the slogan, 'Add an hour to your holidays; vacation in South Australia.' Adopting true central standard time gives this state a tourism and trading advantage, especially in the lucrative export markets. This is an area that we on Eyre Peninsula, particularly Port Lincoln, understand very well. One of the comments by H. Billinghurst of Kingston Park, in a letter to *The Advertiser* on 29 October 2003 stated:

> Now would be an appropriate time for our Premier to declare that our time zone be nine hours ahead of GMT. Nine hours would split South Australia right down the middle which should leave no room for argument and should please everybody. A spin off from this is that it would remove that anomaly of the rest of the world wondering what this half hour is all about in that back water down under.

These are representative of people who have a national and, indeed, a world view. Trading links will become increasingly important and advantageous now that the Darwin rail link is complete. As Philip Hadley of Fullarton commented in 1999: 'Western Australia already enjoys the advantage of being on the same time zone as Hong Kong and Singapore.' South Korea is a major trading partner with this state. Mr Hadley pointed out that Seoul operates on nine hours from GMT, the same as our proposed true central standard time.

Incidentally, it is worth noting that Australian aid sent by sea for tsunami victims left from Darwin. Australia's entry to the populous and lucrative Asian nations is through Darwin which, it is again worth emphasising, is linked by rail, road and air to South Australia. Victoria and New South Wales were disinterested in this rail link until it looked like becoming a reality. Business people in those states recognise the value of that link and tried to get it for themselves. It would make sense for the Northern Territory to also move to true central standard time.

The Northern Territory, at the time of Federation, was included in the state of South Australia. Indeed, as the Speaker advised me, it was once part of my electorate of Flinders. It only became the Northern Territory when it was ceded to the commonwealth in 1911. One of conditions of the transfer was that the laws of South Australia applicable to the territory at the time were to continue; hence the Northern Territory has the same time zone as us.

A past member for Mitchell, Mr Colin Caudell, proposed in 1994 that a joint South Australian-Northern Territory team be established to coordinate the strategy for advancement of the Adelaide to Darwin rail link project, and to investigate the implementation of new central standard time for South Australia and the Northern Territory, based on the 135° eastern meridian, being Greenwich Mean Time plus nine hours. He recognised that true central standard time offers South Australia opportunities for trade with Hong Kong by making our time only one hour different. He also mentioned that tourism would be advantaged and marketing opportunities would be opened up. Those same arguments apply even more strongly now as China has taken over the former British colony of Hong Kong, and is becoming the world's largest trading country.

The worth and importance of promoting this state as an entity in its own right is a consistent thread through all the comments supporting South Australia to move to true central standard time. Professor Peter Schwertfeger of Crafers was professor of meteorology at the School of Earth Sciences at Flinders University, and he can now be contacted at Airborne Research Australia at Parafield Airport. Professor Schwertfeger said:

> It is so idiotic to have the half hour time difference. It was particularly annoying from the standpoint of being a pilot when reports have to be made to the minute. In practice it means that pilots needs two watches to avoid errors.

He also strongly supports Australia working as one nation. He says that, if South Australia moved to EST, the gap between Western Australia and the rest of Australia would effectively excise Western Australia. He said it was already sufficiently confusing when people crossed the WA-SA border. In a letter to *The Advertiser* on 19 August 2000, he said:

> South Australia's absurd desire to be half an hour out of step with civilisation guarantees an incredulous laugh from most travellers as they struggle to set the minute hands or, worse still, 30 digital increments on their watches. Others with programmable international time pieces learn with dismay that no allowance is made for Adelaide's indecisive time zone. Pilots who need to keep track of minutes on an internationally compatible time scale find that South Australia's choice of time nothing but frustrating. The important issue is whether Adelaide keeps Sydney time or its own geographical time, which to the nearest hour is one hour behind that of its powerful neighbour. Business contacts between South Australia and the Eastern States can easily accommodate the arithmetic of adding or subtracting 'one' but grappling with 30 is much more difficult. Let us resolve to do Australia a service and do our part to symbolise unity in this country by having three regions linked by one hour time

increments. If Canada (with the exception of Newfoundland), Russia and the United States can live with multiple one hour stepped zones, surely we can too.

One of the strong selling points of our state is its lifestyle. This is one of the intangibles when discussing time. Putting our clock time too much out of kilter with the actual time reduces our quality of life and detracts from the attractiveness of living in South Australia. It is appropriate here to mention the unofficial 'border time' used along the Eyre Highway from Border Village to Caiguna. The 90-minute time difference between South Australia and Western Australia is broken into two 45 minute increments for the benefit of those who travel along this route. During daylight saving, the two increments would be 75 minutes each. This small practical application of time management again points to the need for South Australia to be on true central standard time.

Another of the intangibles is the power supply. South Australia purchases power from the Eastern States. Adopting true central standard time could offset the periods of peak use by separating peak periods of use by one hour instead of 30 minutes between us and Melbourne and Sydney, thereby easing pressure on shared electricity supplies. This could be of considerable benefit when the spot market price for electricity can vary from a low of $25 per kilowatt hour to a high of $10 000 per kilowatt hour for peak periods.

I am surprised that the honourable Premier has not recognised this point. One of his consistent comments during the last election campaign was that he would deliver cheaper power to South Australians. Well, he can now by supporting true central time. Will the Hon. Mike Rann and his ministers only look at South Australia as an appendage to the more populous and, therefore, politically more powerful Victoria and New South Wales, or will he support our state and our state pride and vote for a one hour time differential?

I hope that government members will support South Australia moving to true central standard time simply because it identifies and confirms this state's individuality and worth. As this is a private member's bill and, therefore, presumably, a conscience vote, I encourage them to vote for our state and true central standard time. In 1994, on the question of aligning South Australian time with some other states, Mr J. Pedler of Norton Summit wrote:

> We might as well switch our clocks so that business here would coincide with Wall Street USA. South Australia could be the first! After all, all those office blocks in Adelaide have their lights on all night (for security reasons). They could be turned off during the daytime then—save power. And think how much more daylight we would have to play around in! Ridiculous!

Mr Pedler accurately touched on the nonsense of the arguments of some of those who oppose South Australia's adopting true central standard time. Vote for commonsense. Vote for state pride. Vote for true central standard time and sleep in an extra hour and a half on Sunday 27 March this year.

Mrs GERAGHTY secured the adjournment of the debate.

SELECT COMMITTEE ON NURSING EDUCATION AND TRAINING

The Hon. R.B. SUCH (Fisher): I move:

That the time for bringing up the report be extended until Wednesday 6 April.

Motion carried.

SELECT COMMITTEE ON THE REGULATION OF THE TATTOOING AND BODY PIERCING INDUSTRIES

Mrs GERAGHTY (Torrens): On behalf of the member for Enfield, I move:

That the time for bringing up the report be extended until Wednesday 4 May.

Motion carried.

PARLIAMENTARY COMMITTEE ON OCCUPATIONAL SAFETY, REHABILITATION AND COMPENSATION

Adjourned debate on motion of Mr Caica:

That the Annual Report 2003-04 of the Parliamentary Committee on Occupational Safety, Rehabilitation and Compensation be noted.

(Continued from 8 December. Page 1239.)

Motion carried.

ROAD TRAFFIC (DRUG TESTS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 8 December. Page 1240.)

The Hon. W.A. MATTHEW (Bright): I continue my remarks from 8 December last year. In so doing, I point out to the house that drugs are a significant problem within our community. We presently allow the police to undertake random breath tests for consumption of alcohol but we do not for the consumption of drugs. It makes good sense that, if we are combating one drug in our community, alcohol, other forms of substance abuse much more insidious, one would have to say, ought not go untested. There is no doubt that there are people who are involved in accidents and who die on our roads as a consequence of drugs. If we are serious about combating the evil of drugs in our community, it is important that we use every measure that is available to us. This is one measure that is used in other jurisdictions and one that we can use in South Australia.

Beyond the problems of drugs and driving and the effect on the performance of a driver is also the fact that they cause other behavioural problems that manifest themselves in other ways within our community. We see those who are affected by drugs who turn to violence and disorderly behaviour. It is only when they commit those misdemeanours that they are often detected by our law enforcement authorities, whereas if they were detected behind the wheel of their car some of those other problems may be prevented. With police having these powers, they would be more aware of those who have drugs in their possession and would be in a position where they could inquire of the user the source of their drug. That could help track down those who are dealing drugs in our community. Further, it would also assist the police in potentially lining up suspects who could be charged with other crimes. We well know that drugs are associated with a long list of crimes that lead the users and the dealers to our present system.

The relationship between crime and drugs in our community is a growing one. There are many within our prison system who have committed a crime—be it fraud, break and enter or other theft—in order to support a habit and, again, something as simple as a drug test of a driver of a motor vehicle could assist our police in solving other crimes. There

are many very good reasons for allowing this bill to become law.

As I indicated last year, I note that the government has now seen the wisdom of supporting a bill such as this through the house. I simply implore the government to support this bill and get it through all its stages in this house and the other place so that our police can have the necessary powers they need to help reduce our road toll and to help solve other problems within our society.

Alternatively, if the government does not want to support the bill in this form, as a matter of haste it should bring forward another bill to this chamber and pass it quickly so that we can give these powers to our police. But this is not a matter for politics. Unfortunately, all too often we see the government play politics with issues like this in its desperate bid to try to re-create the Labor Party, to try to create a New Labor of sorts. It is trying to sell to the public that it is tough on crime and good on law and order. That is the only reason I can think of why the government might delay this bill: to try to fabricate a position that makes the government look as though it is tough on law and order.

I ask the Labor Party to stop playing games and to simply support this bill of the member for Schubert through this and the other place, so that it can become law. I commend my colleague the member for Schubert on his vigilance in bringing this bill forward and endeavouring to make it law and I look forward to seeing the government members show their colours. Perhaps there are some individual backbenchers who do not support the bill and that is what is holding up the government's endeavour. If that is the case, I urge them to think about the South Australian community and help us eradicate drugs.

The Hon. R.B. SUCH (Fisher): I acknowledge the zeal of the member for Schubert in pushing this issue, but I am aware that the Minister for Transport is having a bill prepared now, which should be before the house later this year. It was put to me just the other day by a very senior police officer that there are some difficulties with the proposal as outlined by the member for Schubert. I am not a technical expert but, as I understand it, the Police Department has some concerns with the structure of the bill, the wording and so on, therefore I would have reluctance about endorsing something that the police are indicating may have some deficiencies.

I make the other point that the Victorian police introduced drug testing and got a little bit of negative publicity, somewhat unfairly, I guess, because the person who got the publicity did have drugs in their blood or evidence of drug taking. But a constituent of mine who is in the business of drug testing in the workplace said that the technique used in Victoria was used incorrectly in terms of how they tried to process the slide that had the saliva on it, or whatever. It was done in an incorrect manner. That created a lot of negativity in the media, and probably unfortunately. I agree with the member for Schubert and other members of this place that drug misuse in our community is widespread.

From talking to young people, as I have said in this place before, they tell me that they are not drug users, they are only recreational users—and I defy anyone to tell me the difference. They claim to only use them on weekends, red Mitsubishis and the like. I suspect that, when the law comes into effect relating to drug testing of road users, the statistics will be quite frightening. I believe that in our community drug misuse has already reached a very alarming level. That is anecdotal, but I think it is pretty close to the mark when I hear reports from people, including my constituents, who are professionals in this area.

I commend the member for Schubert: I think he should get credit for pushing this issue but, realistically, I would like to see a bill that has the endorsement of the police and the Drug and Alcohol Council and all the relevant experts, rather than simply getting something in on the basis that it does something. What it has to do is do it properly. Therefore, I fully give credit to the member for Schubert for what he has done but, realistically, in light of what senior police have told me in the last few days, I am reluctant to support something that they tell me is deficient. I am not in a position to challenge their advice, but I give the member for Schubert full credit for pursuing this issue.

Dr McFETRIDGE (Morphett): I support my colleague the member for Schubert and congratulate him in putting forward this private member's bill. If it is as deficient as the government and the member for Fisher think, then take charge of it. Take the bill and amend it. Just get on with it: do not make announcements. The first major event that I went to—apart from dinner with the Queen—when I first came to this place, was the Drugs Summit. What a lot of fanfare there was there. This was going to change the world. But we have seen absolutely nothing come out of that other than more announcements, more reviews and more reliance on statistics.

Talking about statistics on drink driving and driving under the influence of drugs, I was reading Geoff Roach's column in *The Advertiser* of 5 February this year, on page 28. Geoff Roach is a journalist of repute, and he wrote under the headline 'Demerit points for drugs far too soft.' The statistics he refers to are from Victoria. The Victorian police have been looking at this situation, and the statistics are one in 103 positive drug tests compared with a one-in-250 positive rate for drink driving. So, twice as many people are driving under the influence of drugs than are driving under the influence of alcohol, which we all know is a terrible drug by itself. When they are getting on amphetamines, marijuana and all sorts of so-called recreational drugs, I fear for my life, my colleagues' lives, my family's lives and the lives of the people of South Australia.

Who are these people to think that they have some superhuman ability to be able to take control of a lethal weapon, which a motor car is in the wrong hands; who are they to think they can get in and drive in a safe manner? We have heard over the last few days that people who drink different amounts will be affected in different ways. I know enough physiology, biology and pharmacology to understand that alcohol and other drugs will affect different people in different ways. The number of people who are using drugs now is just horrific. When you look at the needle exchanges, the 30 000 to 40 000 needles a month being exchanged in some of the needle exchanges in South Australia, a lot of people out there are using a lot of drugs.

The members of this government need to get off their backsides, stop making announcements and do something about this. The member for Schubert has put up this private member's bill not just once in this place; not just twice. I think this is about the fourth time he has tried to get this up—

Mr Venning: Two years.

Dr McFETRIDGE: Two years! If this is such a deficient piece of legislation, take charge of it and amend it—but do it now. Do not endanger lives. How many people are going to die because this government is sitting on its backside? It is a terrible question to have to ask, but that is the question.

The inaction of this government could inevitably cost people's lives, because they do not know how many people out there are driving under the influence of drugs and they are not willing to test. Give the police more power. The police want more power. I saw an article on that today: the police want more power. Give them the power they want. This is not an infringement of civil liberties.

I consider someone driving a car under the influence of any drug—alcohol or any other—an infringement of my civil liberties, of my right to enjoy my life, and of the right of my children and relatives to get on the road and not have some potentially lethal weapon pointed at them by someone under the influence of drugs. For the life of me I do not understand the Premier, this government and this cabinet, who put on the Drugs Summit, which was a very enlightening summit. I learned a lot. I did learn that tobacco and alcohol are probably the most widely used drugs in causing the most significant statistics out there. But when you look at the figures the Victorian police are producing, with one in 103 positive drug tests, that is a really scary figure to me.

Twice as many people are driving under the influence of drugs as under the influence of alcohol. The government needs to do something about that. The bill we passed about drink driving is a tough bill. If people drink and drive, they are bloody idiots, as the slogan says. There is no excuse for us to go soft on this at all, just because it happens to originate from a member of the opposition.

I was very fortunate to be in this place and have a private member's bill passed. I was a backbencher at the time. It was on something relatively minor, compared with this issue: it was on the issue of tail docking. We got it through. The government made some amendments to that and ran it through. It was the first time in the history of the South Australian parliament that government business was put aside in order for a private member's bill to pass. Why do they not do this? I would be more than happy to support the government's doing that. It should put aside some government business, amend this bill and pass it. This issue will not go away. It will get worse. More people are seeking out ways of relieving their stresses with life by using drugs. Some people think they are recreational drugs but, as I have said before, I know far too much pharmacology and physiology to understand that these drugs give a pleasant euphoria for some time. I have never, ever taken any form of illicit drugs. I have not smoked marijuana. I am speaking from a complete outsider's point of view but, as a result of my knowledge of pharmacology and physiology, I know that these drugs have a significant effect, not just an immediate effect but also a carryover effect. They stay in your blood for many days—for weeks in some cases. They will affect not only the vital organs—the liver, heart and endocrine system—but also the neurological system. They will affect the thought patterns and one's ability to control a motor vehicle.

We have powerful motor vehicles on the road today and we have far too few police to catch the hoon drivers. We need to give the police all the support we can. We need to give them this sort of legislation. This legislation is sensible. The member for Schubert has not just thought, 'This is something we can up the government on.' It is not that at all. There are genuine motives behind this. Members opposite should ask Ivy in the northern suburbs. I bet Ivy will put forward a petition to the government to introduce this sort of legislation. The government should do it; take control of it; do what it likes; have its power plays—but just do it. It should pass this piece of legislation. I commend the member for Schubert for introducing this bill; and for his resilience in bringing it back and ensuring that the government is honest and does what it says, that is, support the people of South Australia.

Mr GOLDSWORTHY (Kavel): I, too, support the member for Schubert for bringing this issue to the attention of the house. This is an issue about which the member for Schubert has been passionate for some time. Some members might know that I worked for the member for Schubert on a part-time basis for four years before coming into this place as a member myself. I know from early on in that time, working for the member for Schubert, that he has been absolutely passionate about this issue. He has been a strong campaigner on it. He campaigned for a long time for a reduction in the number of cannabis plants that an individual could cultivate with a penalty of an expiation notice and a fine. I recall the member for Schubert campaigned strongly inside and outside the parliament to see a reduction in the number of plants that could be cultivated. It used to be nine, 10, three—it was all over the place. It was something that previous Labor governments had not addressed at all. They allowed it to get out of control. Arguably, we suffer the legacy of those days of poor decision making by previous Labor governments. We have seen a proliferation of illicit drugs in this state and the blame, in the majority, lies at the feet of previous Labor governments.

The member for Schubert has been a strong and compassionate campaigner on this issue for many years. I can attest to that. Having worked for him, I think I probably wrote a couple of speeches or prepared some briefing notes for him on this issue from time to time. I am certainly well aware of his very strong stance. Why do government members not support what the member for Schubert is trying to achieve? If we can see our way clear to support the member for Schubert, these measures can be implemented in a matter of three or four months. We have seen the Premier want to steal the limelight. He announced he would introduce a bill a day or two after the member for Schubert introduced this legislation into the house. That is well and good but, as the member for Morphett said, why not amend it? Instead of messing around and fooling around for 12 months, we could have this in place within a very short time. Government members should get off their backsides, support the member for Schubert and amend it, change it, do what they want, but we could have these measures in place very quickly, instead of messing around, which, as we have seen, has become a hallmark of the government's time in this place.

In the past couple of days we have debated a bill to increase the powers of the police to deal with drink driving. The government goes out there heralding that it is strong on law and order. Here is a very good issue that the government can adopt or take over, if it wants. The Premier has tried to steal the member for Schubert's thunder. They can take it over and do something positive with it. The government is out there supposedly strong on law and order. We do not see them too strong on this issue. As I said, we have seen a proliferation of illicit drugs in this day and age. Some 80 per cent of the younger members of our community say that they experiment with some form of drug use, with a smaller percentage having a dependency on drugs. The use of marijuana has been able to run rampant in this state. We have spoken about it before in this house. This state is regarded as the marijuana capital of Australia. That is the result of the very weak laws that have been in place for decades concerning the use and cultivation of marijuana. We have seen a lot

of crime syndicates come together and go around to different people to syndicate the growing of marijuana. What happens is that, just before the marijuana plants are due to be harvested, these people get a knock on their door from the bikie gang, or whoever organised it, to say, 'Hey, we're here for your dope plants, mate. If you don't give them to us, we'll beat you up.' Obviously, there is resistance to that and there is violence, which is reported in the crime statistics as a home invasion. A lot of home invasions are drug related.

Why does the government not do something? Members opposite should take some leadership. They are over there all the time preaching that they are breaking through new frontiers with law and order. We hear it from the Premier, the Deputy Premier, the Minister for Police and the Attorney-General. From time to time, we hear from the whole front-bench about how tremendous its leadership is. Put your money where your mouth is, get behind this bill and show us what you are made of. However, I am afraid that will not happen.

Mr MEIER (Goyder): I am very pleased to have the opportunity to speak on this bill and support it. I know that the member for Schubert has followed this issue for some time, and I think that most members would be aware that the technology to undertake these tests has become available only in the last six months to a year. We have reached the point where the technology allows appropriate testing, and now is the time to proceed with it. I am sure that the Premier, with his attitude towards testing, will be 100 per cent in favour of it, and I look forward to his support. He certainly has the opportunity to participate, or some of his members can participate on his behalf, but that is by the by. Unfortunately, our society has reached the situation when the amount of traffic on our roads is enormous at times.

Ms Ciccarello: People should ride bikes.

Mr MEIER: The member for Norwood interjects that people should ride bikes. I hear what she says but, unfortunately, that can be dangerous, too.

Ms Ciccarello: I have been run over by a bus!

Mr MEIER: The member for Norwood has been run over by a bus and, if my memory serves me correctly, she was knocked off her bike previously as well. Thankfully, under the Hon. Diana Laidlaw, a huge amount of work was done to establish bicycle lanes. A lot more has still to be done, but we have made progress. You can read some of my reports about the ways in which bikes are handled and incorporated in certain overseas countries, particularly Europe, where bikes have their own set of traffic lights, lanes, etc. We have a long way to go. However, I am distracted from the key issue.

One way to get traffic volume down is for people to ride bikes, but the problem is that, if people on the road are not fully capable of handling their vehicle, accidents happen, and people can be not only hurt but killed. As legislators, we must do everything we can to make it as safe as possible for people on the roads. Certainly, alcohol testing has been with us for many years. I remember when it first came in, when there was enormous opposition to it. I could understand that, because the restaurant trade went down, and the Barossa Valley suffered significantly. People had to adjust to a completely new way of living, although people in the country were probably hurt a lot more than those in the city, where people could catch a bus, train or taxi, but people in the country did not have those options: they just did not attend a function if there was no other driver, and that was all there was to it.

Over a period of years, we have seen a massive increase in the use of drugs. If you speak to any young person today and ask whether there are drugs at a function, the answer is usually, 'Of course there are.' There are drugs at so many functions and, in fact, it appears that the majority of young people partake in them. However, one always has to be careful of taking such a fact as gospel, because it is a bit like boys saying, 'I want to wear long trousers, because everyone is wearing them' and finding that only 60 per cent are wearing them.

The situation is that we in this state have to take the lead. Victoria has already introduced this measure, although ours is somewhat different. A similar tough attitude will be taken to people driving under the influence of a drug as will be taken to those driving under the influence of alcohol—namely, their licence will be suspended. That seems to me to be the logical and correct way to go. The method of testing is as easy as the breathalyser, namely, a swab is simply taken from the inside of the mouth. It will probably be easier for some people than blowing into a breathalyser. In addition, if we want them, there will be no problem in setting up the equivalent of alcotesters, where people can ascertain whether or not they are fit to drive.

It is very pleasing that Swinburne University has undertaken a lot of research in this area, and we acknowledge that research which makes this exercise possible for us, as legislators, to ensure that South Australians are given maximum protection against people who insist on driving even though they are under the undue influence of drugs. I note that in Victoria the initial testing in February this year confirmed exactly what the road safety experts had long contended and feared—namely, the incidence of drug driving is almost certainly more than twice as prevalent as drink driving. In fact, in an article in *The Advertiser* on 5 February, Geoff Roach states: 'That breaks down to something like one in 103 positive drug tests, compared with a one in 250 positive rate for drink driving.' We would be lacking in our duty if we did not proceed down the track of tackling this problem. I know that the community will be on side. I hope that the government will allow this legislation to proceed in all haste.

I refer to other legislation which came into law only a few days ago: the hoon driving bill. When did this chamber first see that? We first saw it immediately after this government was sworn into office. Who introduced it? The member for Mawson (Hon. Robert Brokenshire) did so three years ago and, at that time, I asked him why he did not proceed with it. He told me that the Premier said that he would like to incorporate it with other legislation, so it was delayed and delayed. Finally, the government introduced its own bill and, finally, the hoon legislation has been enacted. In fact, it was the member for Fisher who introduced it at that time, and I had to smile the other day when the Premier sought to take credit for it. I thought, 'Hang on, it was a Liberal policy at the last state election.' We sought to bring it in, but it took the government three years to act.

As the Speaker reminded us a little while ago, only 13 months are left before the next election. This bill needs to be proceeded with forthwith. We have plenty of time to address the issues and, if any problems arise, we have time to sort them out. However, most importantly, we have plenty of time to implement appropriate drug testing, in association with appropriate alcohol testing, so that, by the end of this year, it will be well and truly in place—and that means by the time of the next election. If we do not act now, what will happen

is that this bill will have to wait until after the next election, and then there will probably be no hurry. So, up to two years could elapse, and how many people could have been killed in that time as a result of drug affected drivers? If you look at the statistics from Victoria, it appears that it could affect one in 103 people, and that is a very significant percentage and one that we, as legislators, should take note of. I heartily endorse the member for Schubert's proposal and his bill. I trust that it can be enacted as soon as possible. I trust that the cabinet has considered this and that it has agreed to it or, if it has not agreed to it, that it will agree to it in the near future, and that there will be minimal delay in introducing this legislation.

Mr WILLIAMS (MacKillop): I intend to speak to this because, unlike those opposite, I am very concerned about what happens on our roads. I spoke about this yesterday.

Mrs Geraghty interjecting:

Mr WILLIAMS: I did, and the honourable member should read what I said. I am very concerned about what happens on our roads. I spoke about it yesterday in this house and the evening before when I was speaking to the Statutes Amendment (Drink Driving) Bill. I think it is opportune to be able to speak on the measure brought forward by the member for Schubert on this very important matter, because it highlights a huge gulf between the attitude of the opposition and the attitude of the current government to what happens on our roads. The current government—and we have seen it in everything it does and puts its hand to—is only interested in grabbing money. It is interested in taxing road users through fines and impositions to fill the Treasurer's coffers whereas the opposition is supporting this measure because we have a real concern about what happens on our roads. I spoke at length—in fact, I think I used my full time—on the measure relating to on drink driving laws that went through the house yesterday. I spoke about how draconian I thought it was to inflict significant imposts on the public of South Australia for very low blood levels of alcohol, which all the scientific evidence shows has negligible impairment on the ability to operate a motor vehicle on our roads. That was backed up by the RAA when we discussed that matter a few years ago.

It is becoming evident, and it has become evident over quite a period of time now, that the use of recreational drugs—a term which I do not like to use because I do not know that there is anything recreational about using drugs, but that is the term that is used in the community—is occurring, as is evidence of the impact that that has on a person's ability to operate a motor vehicle on our roads. The problem we have had for a long time (probably 30 years) is that we have not had a system of being able to test, and I do not believe we even have a system where we can test and know what level of impairment a drug user is experiencing from a particular drug or a particular level of use of that drug. We will only get that data through building a system and implementing a regime as has been suggested by the member for Schubert. Once we have implemented a system of drug testing of our road users and monitoring the various behaviours, the statistics and victims of road crashes, we will start to build up a picture.

There is no doubt that drug use has an impact and that operators of motor vehicles are impaired. Anybody who argues that that is not the case is going through life with their eyes and mind totally closed. There is no doubt about that. The other good thing is that now we have a system where we can test. It is a system which is quick, easy and relatively cheap, just like the BAC test which is used to test for the presence of alcohol in a driver's system. We now have a quick, easy and relatively cheap system to test for the presence of drugs. I am not saying that the member for Schubert's measure will be the last word in this. In fact, it is merely the first word, but we have to get it started. The sooner we get it started, the better. The government is great at chest-thumping, going out there and saying that they are tough on law and order and great at saying that they are tough on people who should not be driving. The government believes it is so tough on all these things, that it is going to make South Australia a fantastic place. It fails absolutely miserably on protecting people on South Australian roads, apart—

Members interjecting:

The DEPUTY SPEAKER: Order! The members for Torrens, Schubert and Playford will come to order.

Mr WILLIAMS: Apart from getting its hands into drivers' pockets and ripping dollars out of their wallets, this government is not really tough. It is not interested in seriously doing something about the road toll. In a recent article in *The Advertiser* on 5 February, Geoff Roach wrote about this issue. He provided some interesting statistics that have come from our neighbours across the border in Victoria, where they have implemented such a system. They have already implemented it because they recognise the importance of this measure. The figures coming out of Victoria show that the use of recreational drugs by our road users is probably at a level double that, at least, of the use of alcohol by drivers of motor vehicles. Members of the government seem to be disinterested in doing something about that. I know that the government has put out a couple of press releases on this issue because it likes to cover its back. I am sure that, if pressured, the minister and the Premier, because the Premier loves grandstanding, would come out and say that they are working on this and that they are going to do something. I bet when they say that the Premier will say that they will be as tough as anybody. It will be the toughest law in the world, because that is a line that the Premier likes to use.

Members interjecting:

Mr WILLIAMS: For goodness sake; he will say it. I will remind them. When the press release comes out, I will remind them because he will say it. I wish that the members opposite would at least support the second reading and get it into the committee and then we can have some serious discussion about the nuts and bolts of how we will implement this. Get it through this place and, as we all know, it will take a number of months. Even if we give this speedy progress, it will take a number of months to get it through the parliament. The Minister for Transport should use her good office and the people in it between houses to ensure that, at the end of the day, the bill that comes out of the parliament is workable, beneficial to the people of South Australia and improves road safety, which is different to raising revenue for the Treasurer. If she cannot do that there is something wrong. It means that the government is disinterested, as it appears to be.

I commend the member for Schubert. This is not the first time he has raised this matter and I think, as other members have said, certainly the member for Kavel knows, that the member for Schubert has been on this particular bandwagon for a considerable amount of time. I am certain that I have spoken on this particular matter previously in the house. I have not changed my position. I suspect that a number of people on the other side of the house have probably spoken

on this matter over the years because it has been around for a while now. What I am urging is for the house to recognise that it is now time to stop talking and get on with some doing. I urge members opposite. This has been on the *Notice Paper* for a considerable amount of time. Most of the members saw this measure brought to the parliament several years ago. It is not as though they are surprised by this particular initiative. I urge members opposite either to vote this down if they do not want it or to support it.

Do not just continue to adjourn this matter; let's bring it to a head. I urge government members to stand up and be counted and allow a vote on this matter. I think that most members on this side of the house have made their contribution. The government should not adjourn this matter but allow a vote on it. Let everyone in South Australia see where you stand. You either support or do not support the measure. At least let this matter go to the committee stage, where we can have a serious discussion on the individual clauses that are being presented to us.

Mrs GERAGHTY secured the adjournment of the debate.

SOCIAL DEVELOPMENT COMMITTEE: POSTNATAL DEPRESSION

Adjourned debate on motion of Mr Snelling:

That the 20th report of the committee, entitled Postnatal Depression Inquiry, be noted.

(Continued from 24 November. Page 1051.)

Ms BEDFORD (Florey): I rise today to commend and to comment on the 20th report of the Social Development Committee on Postnatal Depression tabled on 23 November 2004. On 16 July 2003, I proposed this inquiry, which I had originally proposed should relate to the much broader subject—and indeed perhaps one of the most significant times of a woman's life—that is, the birth of a child. This has made me, as one of my colleagues put it, 'the mother of the mother of all inquiries'. A motion accepted by the house was modified to form an inquiry specifically relating to postnatal depression, with reference to any other matter.

The arrival of a new baby is generally considered to be a joyous event. However, for some mothers the joyous event is accompanied by the bleakness of postnatal depression. Postnatal depression is a common, frequently unrecognised yet devastating disorder affecting approximately one in seven women worldwide, equating to approximately 50 000 women each year in Australia. PND may strike without warning, or it may have a slow, insidious onset. In some women, the condition is apparent very soon after the new baby's arrival. For other women, symptoms and indeed diagnosis, may not occur for many months. In fact, evidence taken has shown that some women may experience depression during their pregnancy (referred to as antenatal depression). The severity of the illness depends on the number of symptoms, their intensity and the extent to which they impair normal functioning. However, there is no doubt that it is often a severe and long-term condition.

The nightmare is real, and women suffering PND in our community often suffer alone and in silence. It can be quite easy for a report such as this to lose sight of the very real human face of the illness, and I hope that, when the report is read and the recommendations considered, it is remembered that these women and their families are affected in a very real way. When you are a new mother, you are at home (alone in most cases) with your baby, often with money worries and a partner who may have to work extra hours each week to allow you to remain at home with the baby. Close family members are often too far from your home and, like you, may have difficulties accessing any form of maternity leave or other leave to be of any real help with the new baby.

It is all too easy to become disillusioned with the people around you. Inevitably, you will not be getting the support you want and think you deserve. You can feel as though you are the only one making any sacrifices and that you are completely forgotten by the outside world. After the birth and the initial welcoming of a baby into the family, some women can experience a lot of disappointment. New mothers are often showered with material goods which, while they certainly may be pretty and useful, are not what mothers really need on the inside to sustain them. When the visits stop, as they inevitably do, women can feel cut off and left to flounder and make their way through the very strange territory of parenthood.

Birthing is a major life event, and there is little counselling before and even less after the event. As we all know, women need to talk through their experiences. Returning to feeling 'normal' after a birth that more often these days involves major abdominal surgery can take some time. In addition, women must learn to master the art of feeding the baby, either by bottle or breast. Either way, every baby is different and the process can be exhausting. Sleep deprivation becomes a major factor that usually comes into play not long after the mother returns home. People seem too busy to help and, while it is often too hard to ask for help, most people do not even know how to ask if help is needed. Of course, people do not ignore the signs knowingly; it is just an indication of the state of our relationships these days in that we do not recognise the signs and how valuable time has become in our fast-paced world.

So, while our babies look beautiful in their new outfits and have fun with the toys they have been given, as they grow these children also see their mothers crying with despair and, on some occasions, shouting at them to silence them after a night where the baby has been screaming with wind or teething pains. Being at home with a baby is a big ask for women these days. The benefits of living in a society that allows women the freedom to work and earn are counterbalanced by the expectation that we will return to the work force soon after the birth and be what we know as the 'supermum' who can cope with everything at home and everything in the workplace. There are very few social structures or supports to enable those mothers who delight in being at-home mothers to stay there, and the financial pressures for them to return to work are enormous also.

Women reported seeking advice and reaching out to people for help, only to be met with mixed results. Women who appeared before the committee reported that they received well-intentioned advice, such as 'Give the baby a bottle of formula, and he will sleep through the night,' or 'Canned baby food is just as good,' or 'Leave him at child care a couple of times a week and have some time to yourself,' or 'Don't do any housework if you don't want to; nobody expects a tidy house when you have a baby.' Of course, more often than not no-one does do the housework, so you are left with that in any case.

So, how do women distract themselves from the dark feelings and the self-reproach that goes with all this? Throughout the inquiry, the committee heard evidence from many groups, and some mothers in our community shared

their stories with us. We heard from CARES SA, which provides invaluable advice on a daily basis to women who have had or are going to have a caesarean birth. That organisation lobbies very hard to reduce the unacceptably high rate of caesarean birth in South Australia, which is the highest in the country. We heard from the Northern Women's Community Midwifery Service, one of the best services for pregnant women. Another midwifery-led service is run through the Women's and Children's Hospital. This service is almost always fully booked, so it must be doing something right.

We also heard from a group called PANDa, a Victorian-based support group for women with postnatal depression. Something similar is needed here in South Australia. We actually had a very similar service—a support group for women with PND—but it no longer runs as it did. Of course, the dedicated staff of Helen Mayo House do their best with limited resources and funding, and it is in desperate need of new facilities. It is attached to the Glenside campus of the Royal Adelaide Hospital, which deals with our mental health areas. It is not the best place to be if you are a new mum with a baby, and of course it is fairly formidable surroundings for young children to come and visit their mum.

The Perinatal Psych Unit at Lyell McEwen could also readily utilise more staff and resources. The unit's work is invaluable for the northern community, which, as we know, is an area that is home to young women dealing with babies. There is also Torrens House, the Women's and Children's Hospital and individual practitioners, as well as Beyond Blue, the service for depression we have heard so much about. Everyone who appeared before the committee contributed vital information and gave the committee enlightening insights into the hardship and suffering of mothers and their families and the frustration of services who cannot provide as many resources as they would like for the people who are in need. However, good things are being done, and important new initiatives, such as the web site attached to the Perinatal Practice Guidelines, point to the commitment of the government.

So, we are now at a place where we have a current report and recommendations from the Social Development Committee. It is no secret that I believe the report could have examined the child birth issue in a much broader way. Many of the recommendations call for additional reviews and surveys, and I hope they will not be necessary before we see action. Not everyone with whom I conferred before the report was completed has had a chance to get back to me. Christmas has intervened, and I guess getting everyone back to school has been a problem for some of the women involved in the midwifery area. However, I do hope to hear from them in the not too distant future.

I welcome the debate we have had around the report. However, while we are contemplating the recommendations, women in our community, their partners and their children will unfortunately continue to endure a process that should deliver more at what should be one of the happiest times of their life. I do hope the minister will adopt the recommendations of the report and perhaps even go above and beyond what it proposes to meet the needs of women in our community.

I would like to pass on to my colleagues and the staff of the Social Development Committee my thanks, and thanks also to those who presented information and evidence to the committee, particularly the women who shared their very private stories. Evidence and research showed that the implications of post natal depression are, of course, devastating on the mothers and also their families, but most concerning was the affect on the babies involved. Very worrying evidence was given to the committee about what happens to the babies, particularly the boy babies, who do not cope very well at all when their needs are not met in a timely fashion, and as that cannot happen all the time when their mother is unwell means that there are boy babies who are not doing very well.

A lot of the evidence pointed to the prevalence of ADD and ADHD in the community which, we all know, affects boy babies. This is, in itself, an important area, and I hope it will be the subject of further research and statistical analysis. Finally, I would like to mention my two recent encounters with the maternity services here in Adelaide: one a caesarean in a private hospital; and the other a VBAC birth in a midwifery led service. Both women have had the benefit of this report and have been supported, and despite a few ups and downs with their pregnancies, I hope they enjoyed their births—one a first child and the other a second child. This report was proposed for them, and for Olivia and Eamon and all the other mothers and babies in South Australia.

If we are to encourage women to have babies, and more of them, we must do all we can to support them. For many women there will only be one birth. Perhaps consumer confidence in the process will be one way to ensure population growth here in South Australia. I commend the report to the house.

The Hon. R.B. SUCH (Fisher): I will make some brief comments. First of all I commend the Social Development Committee for looking at this important topic, and the members of that committee for the work that they undertook. It is a very important topic and I do not profess to have any expertise particularly in relation to it. I have a motion on notice relating to paid maternity leave and I will not transgress by going into any detail there, although it is obviously an important related matter. Without being too specific, because I do not wish to identify individuals, and it is not necessary to do that, I have a close relative who experienced post natal depression. This close relative looked after her mother for 18 months—two years I guess—when her mother was dying, then took a short holiday, and during that time her mother died. When the daughter subsequently gave birth, I think that that guilt, compounded by a difficult birth, gave rise to, in my view, post natal depression, which had a very significant impact on that person, who is now able to lead a fairly normal life but for a long time the depression had a very negative impact.

I am also aware in the street where I grew up of a mother who attended the local church (the one that I attended), and we all thought that she was the same as everyone else in the area, but one morning she strangled her little boy when she was hanging out the washing, and that was another tragic example of the consequence of, in my view, post natal depression. It was not appropriately diagnosed, or not diagnosed, and not treated. I know of another case where someone, I think once again it was probably a difficult birth and a combination of hormones, all of those sort of things, and I do not think that that particular mother has ever recovered.

I do not want to paint a dismal picture or deter people from having children, noting that in this chamber we have recent parents, and I have become a recent grandparent, so I do not want to deter people from the wonderful experience.

However, we have to be realistic that post natal depression is an issue, and I am delighted that the government has recently introduced this home visit scheme. This scheme is not just talked about, it is practised, in the sense that I know that my son's partner had a visit recently within four weeks—it may have been a shorter time—of the birth of young Elise. I think that that is a great thing, particularly in relation to the potential for post natal depression, and I would argue that that visitation process should be continued even past what is the likely post natal depression period, to have a look at the ongoing well-being of the child up until school age at least. That is obviously something for the Treasurer to try and address and I will be lobbying him on that very point.

The other thing is, and I do not want to transgress in terms of my forthcoming motion, but paid maternity leave and paid paternity leave, which is something that exists in some enlightened countries in Scandinavia, are things that would also help in relation to helping a new mother to adjust to having the baby, and maybe deal with some of the issues that may have arisen during what may have been a difficult birth. As I say, I am a novice in respect of matters of birthing but I suspect that feelings of guilt, and of other anxieties, may be triggered off as a result of whether it is partial anaesthesia, or whether it is the painful process of giving birth, and for many women this seems to trigger off aspects of depression.

One of those cases I talked about earlier, the treatment in that time—and this is going back nearly 30 years—was electric shock treatment for post natal depression. I do not believe that that is undertaken any longer, and I stand to be corrected, but as far as I know we do not use that any more in South Australia. However, the consequences of the treatment as much as the condition were quite severe and, in my view, very long lasting.

It is not an issue which will ever get on the front page of the paper but it is very important not only in terms of the well being of the mother and the father, but also of the child or the children. History is probably littered with plenty of examples where it was not diagnosed, and the treatment was not available, and there have been very sad consequences, as I indicated in the sad case of the woman in our street who clearly was overwhelmed and took the life of her young child, ironically opposite the very church that she attended.

I commend this report. I trust the recommendations can be followed through. We know that in any system, and this is no criticism of the present government, that the bureaucracies take a while to gear up and to implement, but the mere fact of undertaking a report like this puts the issue of post natal depression in front of us and, therefore, encourages us all to take it seriously, and to realise that, whilst births are normally happy occasions to be celebrated, and in the majority of cases everything goes well, there can be those situations where post natal depression occurs and, likewise, other things that can go wrong which have a negative consequence. In essence and, in conclusion, I commend the committee for what it did, and its recommendations, and I look forward to them being implemented in due course.

Ms THOMPSON (Reynell): I also would like to rise in support of this committee report, and commend you as the member for Florey for introducing the subject for the consideration of the parliament through the means of the Social Development Committee. As you said in your remarks, this is a matter that truly affects many lives and it is an area where there is the potential for great good to be undertaken as a result of relatively modest expenditure. In looking at the recommendations of the Social Development Committee I noticed that many of them relate to re-engineering of the practices in our hospitals and agencies.

The Generational Health Review has focused our attention on how we need to work at the levels closest to the community to affect health outcomes. I was privileged to hear former Australian of the Year, Professor Fiona Stanley, speak last year, I think, about the fact that the great advances in medical science now will not come so much from the heroic medicine—the fancy machines, the clever operations and the dramatic rescues—as from better practices in relation to community-based health care.

Sometimes when I feel a little uncomfortable about the way in which so many health care providers want this machine, that machine and some other machine, I am reminded of the fact that the major health outcomes that have occurred in the last two centuries have come not so much from medical science as from plumbing. The fact that we have safe water to drink and a safe and reliable system for the removal of waste has contributed massively to the health and wellbeing of our community. We only have to look at those countries that have been affected by the tsunami as well as other developing countries to see how essential safe water and sewerage is.

Fiona Stanley pointed to the fact that it is similar sorts of innovations and changes of practice in relation to community-based health care that provide the greatest opportunities for benefits in the future. This involves looking at the way in which health providers and community workers, social workers, housing providers and city planners work together to get the best social and health outcomes for our community. The recommendations of this very important inquiry give us some practical ideas of how the grand plan of Fiona Stanley, in terms of bringing together different forms of care in the community, can be implemented in South Australia.

I was particularly interested to see the recommendation relating to the evaluation of the Mother Carer Program, which is at the Lyell McEwin Hospital. Again I was very impressed to hear a presentation some time ago from the initiator of this program and some of the young women who are delivering the mother care. The multiple outcomes from this program provide a model of what we need to do. The young women who are now providing the care, after a six-month training program, I think, have had their lives turned around. They are all young women in long-term unemployment. They now have jobs, more education and more self confidence. They have the ability to fulfil an extremely useful role in our community—and that is just looking at the carers; that is not looking at the services that they deliver.

The information we had at the time was that enabling other mothers (because most of these young women are mothers) to go home early and be at home before the teary, weepy days start on day three, usually, has been wonderful; the mothers can be home and settled when they are still feeling good, before they get the weepies, and they have support from a mother carer to help them meet the extra demands they have with a new baby, particularly in the immediate post-birth period when some of them are feeling weak, some of them are just feeling amazed and some of them are really juggling the fact that they have to support the integration of this new child into an existing family—and other young children are not always very happy about it, particularly the two-year-olds. Looking at this further evaluation of the Mother Carer Program is something that I really hope will be able to be undertaken.

I again commend the members of the Social Development Committee especially for the way in which they have integrated their recommendations with the objectives of the Generational Health Review. I do not know whether they were aware of Professor Stanley's work, but they certainly are very consistent with what she said about the major source of future improvement in health outcomes.

Motion carried.

SHOP TRADING HOURS (TOURIST PRECINCTS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 10 November. Page 827.)

Dr McFETRIDGE (Morphett): I rise to support the bill. Shop trading hours is an issue that arises frequently in my electorate of Morphett, because one of the pleasures of being the member for Morphett is walking down Jetty Road at Glenelg, which I understand was the first tourist precinct in South Australia. I often boast to my colleagues that I have 106 restaurants and cafes within walking distance of my office. I have not yet tried them all, but they are of the highest quality and I intend to ensure that I have had a meal or a coffee at every one of them by the time I leave this place. It will take many years to do that, and I intend to work very hard for my electorate. It is a privilege to be in this place, and one of the privileges is to be able to stand up for business in South Australia, not only at Jetty Road at Glenelg but also in the CBD.

Whilst South Australia has a long history of relying on the manufacturing industry and also primary industry—farming and mining—there is a huge opportunity, and everyone recognises it (this is not something that either side of the house has a monopoly on), for tourism in South Australia to be an absolute goldmine for us. The leisure and pleasure industries will play a big part in all economies around the world in the future. I boast to people that in South Australia we have more hours of sunlight than the Gold Coast, we have more navigable islands than the Whitsundays and we also have better marine flora and fauna than the Great Barrier Reef. The other day when I spoke on the dolphin sanctuary bill I pointed out that we have one of the best, if not the best, dolphin experiences in Australia with the Temptation Sailing company at Glenelg.

More to the point, the tourists are coming, and they are coming to see shops that are open. With respect to the Indian doctor who recently left after a very short stay, apparently his son said in an email to a friend, 'You could shoot a pistol down the main street and you wouldn't hit anyone.' The commentator on the radio thought that he was talking about Wudinna, but he was talking about Adelaide. During the dinner break last night I wandered down Rundle Mall and, unfortunately, it was like that. It was closed. It was not completely deserted; there were a few people around the place. There were some tourists taking photographs of some of the historic facades. They were enjoying themselves, and they had plenty of room to move. There was no-one obstructing their photographs because there were very few Adelaidians there; very few South Australians there.

The reason why they are not there is because the shops are shut. The non-exempt shops, the small shops, can be open; we know that. But it is the larger shops, the variety stores, the broader range of shops that tourists are looking for when they come to shop. We expect them to be open. Harbour Town at the airport is a good example of the new type of shopping. It is a brand outlet centre. It is not seconds goods, it is superseded stock; last year's range. It is still top quality. The tourists come from all over to go there. As the Adelaide Airport is developed more tourists will be going there, more tourists will be going to Glenelg and more tourists will be coming into Adelaide. It is very important that we make the change and that the central shopping district becomes the central tourist precinct.

The only way we are going to do that is to give the shops there the opportunity to be open 24 hours a day, seven days a week—but not 365 days a year, because there are a couple of days of the year when I feel we need to be aware of the values we hold dear in Australia. I understand that in the USA Good Friday is not a holiday. Someone said that Christmas Day was not a public holiday. I have to verify that but, if that is the case, it is a surprise to me and, I imagine, to many members in this place. But in terms of Christmas Day and Good Friday, there is argument that in our multicultural society there are other religions that do not celebrate those days, so perhaps we should open the shops if the shopkeepers want to do so.

I have some problems with that, because the Australian nature is to preserve those days as special days. It does not matter whether you are of the Christian faith and want to celebrate—

Ms Thompson: They are now cultural holidays rather than religious holidays.

Dr McFETRIDGE: As the member for Reynell says, they are cultural holidays. And part of the Australian culture is to celebrate those particular times of the year. I know that all members of this place value the fantastic multicultural society we have in South Australia. Anzac Day is one particular day above all the rest when I do insist that we remember our past, remember what this country is about, not just for the Diggers who died at Gallipoli but for all the people who have died, who have fought, who have pursued a life in which they wanted to preserve the culture we have in Australia. So, we should have these cultural holidays. Anzac Day is a particular cultural holiday. I do not want to see any shops opened at all, not even the coffee shops, restaurants and cafes down at the Bay, on Anzac Day morning. After 11 o'clock, which seems to be the accepted time—

The Hon. J.W. Weatherill: Where are the Diggers going to get a drink?

Dr McFETRIDGE: The minister is right, when he says 'What about the Diggers?'

Ms Thompson: They get a drink at the RSL before the march and at the pub after the march.

Dr McFETRIDGE: I am being educated here by those who are far more experienced in dealing with Anzac Day marches. I have been to a few celebrations down at the Bay, and they are fantastic. I have been to celebrations with the Diggers afterwards and had my coffee with a dash of rum. Perhaps on Anzac Day we will have to allow the Diggers to have their drink at the RSL—

Ms Thompson: After the dawn service, back to the club, then into the march and then to the pub.

Dr McFETRIDGE: That is great, as long as we are preserving the tradition and the respect for Anzac Day. I have every degree of support for that ritual. Because it should be a ritual: it should be recognised. It is interesting to note that South Australians, young and old, are turning out in greater numbers. All faiths, all cultures and all backgrounds are

coming out to celebrate Anzac Day because it is a celebration of this fantastic nation, not just the fantastic state we live in. But getting back to the shopping hours, apart from Anzac Day, that one day, I think there is an option, if the shop assistants are not going to be disadvantaged. If they want to volunteer or if there are sufficient financial incentives for them, I am sure anyone running a business is not going to want to rip off their employees and, if they do, I will be just as hard on them as anybody on the Labor Party side, because you should never exploit people, particularly people who are at the mercy of someone who has their job in their hands.

That is why it was interesting to go to the SA Unions launch the other day and talk to some of the union leaders there and see where they are coming from. Really, we are singing off the same hymn sheet, although some of us with slightly different notes. But the opportunity to go shopping in South Australia should not be held up because of bureaucratic interference or because there is fear that people, shopkeepers particularly, will be abused. It should be noted that the future of South Australia is in tourism, in leisure and pleasure, and one of the pleasures of life for many people is shopping: not just window shopping, which was all I could do down in Rundle Mall last night. That was a weekday, it was light (thanks to daylight saving), and it was a situation where I could not, even if I had wanted to, spend some money on new clothes or shoes or just buy a present for someone.

I could not even go to Haigh's to buy chocolates or to Darrell Lea to buy some licorice last night, because they were shut. This was just after 6 o'clock, and it was a sad indictment on Adelaide, unfortunately. I know that the city council is working on this, but we need to look at this in a sensible way and not disadvantage anyone, particularly the shop assistants. At the same time, we need to recognise where this state is going, where the future is. Tourism is one area where we need to be very careful that we are resolute in promoting tourism, and changing the central shopping district to the central tourist precinct and opening it up is something that I support very strongly. I support the bill.

Mrs GERAGHTY secured the adjournment of the debate.

CONSTITUTION (BASIC DEMOCRATIC PRINCIPLES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 10 November. Page 830.)

Mr MEIER (Goyder): I am pleased to speak to this bill, introduced by my colleague the member for Stuart, for a second time. I believe it makes a lot of sense. Basically, as members will be aware, this bill seeks to ensure that representatives of all the people who reside in their respective electorates in exercising their parliamentary functions are not bound by orders or instructions and are subject only to their conscience. I think part of the reason why people have lost some confidence in our political system from time to time and have gone away from the major parties is that they feel that the members are tied to their parties and it does not matter what lobbying they do: if that member cannot convince the majority of his or her party, then it is going to be lost. And they have a very good point.

We have seen from election to election variations in the way that people feel about whether the major parties should be supported or not supported. In the last few years there has been a bit of a swing back towards the major parties, but a few years before that it looked as though we were going to have a very significant number of so-called Independents, in other words, people not allied to any major political party. And we can understand people's feelings. You, sir, particularly, as a Independent would understand those feelings out in the community, and you probably have benefited from the feeling that people want some independence. They want their member to be able to exercise his or her vote as he or she sees fit. Within my own party, I have a reasonable amount of democratic freedom.

I say 'reasonable amount' because, as the party Whip, I feel as though I am bound to support the party line more often than not, because otherwise why would I be there to try to ensure that all members support the party line? Nevertheless, I have the opportunity, if I disagree, to indicate that to the shadow minister (while we are in opposition), minister (if we are in government), or my leader or premier, depending on whether we are in opposition or in government. I guess one does not have to exercise it often and one may say, 'Why do you not exercise it more often?'

The reason is that so much of the debate is carried on outside this house. In fact, debate is carried on in the party meetings. Quite often, I have had a view that might have been contrary to what is finally decided, but I have been convinced by the debate and the arguments put forward. I have recognised that, perhaps, my arguments or thinking have not been 100 per cent spot-on and my colleagues have enlightened me and I can see the sense in supporting the majority line.

This bill will not revolutionise anything, but it will ensure that every member in this place has the democratic right to vote as they feel appropriate. The member for Stuart provided a few examples, where he felt that votes would have been different or could have been different if it were not for a person having to stick to a particular party line. One of the classic cases he highlighted was that which occurred with the introduction of poker machines into this state, when the Hon. Mario Feleppa perhaps voted against what he personally believed in. Certainly, there have been more recent examples, and again the member for Stuart highlighted those. They probably have occurred more often in the past three years, because this government has not allowed its members to exercise a conscience vote on matters which traditionally would have been a conscience vote, whereas on my side of politics we have stuck to what has been the principle over so many years—that is, if it is decided by the party meeting to be a conscience vote, then it is a conscience vote, and that applies to moral issues and similar value judgment issues. I think it has worked very well.

By allowing a member to exercise his or her democratic vote and not be tied to the party, it also adds real meaning to members taking a survey in their electorate. They can be guided by that survey over and above what the majority of their party may decide. The member for Stuart indicates that this has applied in the German parliaments for a considerable time. In order to judge the merits or otherwise of allowing this democratic vote in our parliament, to what extent is Germany a successful country through its democratic principles? If we looked at it on the world stage, we would say it is within the top five. It would be up there with America, Britain and France. In fact, depending on the particular factors one is weighing up, it is either No. 1, No. 2 or No. 3. It is a country that is well governed and respected. Its views are highly thought of. I would say the system they use in Germany has not been disadvantageous to Germany at

all: in fact, it probably has been advantageous. There is political stability. It certainly does not detract from minor parties. I think the Greens probably started their advances in Germany more than in any other country, and they still have a significant influence, I assume, today. It also does not detract from the major parties still maintaining their major party status and being significant forces within the community. I am pleased that the member for Stuart has brought this legislation back before the house. I do not see a problem in supporting it. I think it will lead to better decision making here in South Australia. I support the bill.

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

Mr MEIER: I think that enough has been said. I welcome the members who have shown such great interest straight after the tea break. It is wonderful to see their enthusiasm for and interest in this bill. I think that it shows that it is of great concern to each of us, and I trust that all members here will weigh it up carefully and, hopefully, see their way clear to supporting this bill, as is their democratic right.

Mrs GERAGHTY secured the adjournment of the debate.

NATIONAL ELECTRICITY (SOUTH AUSTRALIA) (NEW NATIONAL ELECTRICITY LAW) AMENDMENT BILL

The Hon. J.D. Hill, for the **Hon. P.F. CONLON (Minister for Energy),** obtained leave and introduced a bill for an act to amend the National Electricity (South Australia) Act 1996. Read a first time.

The Hon. J.D. HILL: I move:

That this bill be now read a second time.

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

Leave granted.

Introduction

The Government is again delivering on a key energy commitment through new legislation to significantly improve the governance arrangements for the national electricity market, for the benefit of South Australians and all Australians.

The *National Electricity* (*South Australia*) (*New National Electricity Law*) *Amendment Bill 2005* will make important governance reforms to the national electricity market, through separating high level policy direction, rule making and market development, and economic regulation and rule enforcement. A further major reform is the streamlined rule change process, now embodied in the new National Electricity Law. As a result of these reforms, the rules that govern the national electricity market, and which are currently embodied in the National Electricity Code, will be remade as statutory rules under the National Electricity Law. These initial National Electricity Rules will be made by Ministerial Notice but will then be subject to change in accordance with the statutory Rule change process.

In short, this Bill will strengthen and improve the quality, timeliness and national character of the governance and economic regulation of the national electricity market. In turn, this should lower the cost and complexity of regulation facing investors, enhance regulatory certainty and lower barriers to competition.

Background

As Honourable Members will be aware, South Australia is the lead legislator for the National Electricity Law at present and retains this important role under the reforms proposed.

The existing co-operative scheme for electricity market regulation came into operation in December 1998. The lead legislation is the *National Electricity (South Australia) Act 1996*. The current National Electricity Law is a schedule to this Act, and that Law, together with the Regulations made under the *National Electricity (South Australia) Act 1996* are applied by each of the other national electricity market jurisdictions, that is, New South Wales, Victoria, Queensland and the Australian Capital Territory, by way of Application Acts in each of those jurisdictions. The initial rules for the national electricity market, contained in the National Electricity Code, were approved by the relevant Ministers in accordance with the current National Electricity Law.

Under the proposed reforms, the new National Electricity Law, the Regulations made under the *National Electricity (South Australia) Act 1996* and, now, the National Electricity Rules, will be applied in each of the other national electricity market jurisdictions by virtue of their Application Acts. In addition, this new regulatory scheme will now be applied as a law of the Commonwealth in the offshore adjacent area of each State and Territory, similar to the approach used for the gas pipelines access regime. Tasmania is scheduled to join the national electricity market on 29 May 2005, and apply this new regulatory scheme.

As Honourable Members will be aware, South Australia is participating in the reform of the regulatory framework of Australia's energy markets in response to the Council of Australian Government's Energy Market Review 2002, also known as the Parer Review.

In December 2003, the Ministerial Council on Energy responded to the Parer Review by announcing a comprehensive and sweeping set of policy decisions for its major energy market reform program. These policy decisions were publicly released as the Ministerial Council's Report to the Council of Australian Governments on "Reform of Energy Markets". All first Ministers endorsed the Ministerial Council's Report.

In June 2004, the *Australian Energy Market Agreement* was signed by all first Ministers, committing the Commonwealth, State and Territory Governments to establish and maintain the new national energy market framework. An important objective of the *Australian Energy Market Agreement* was the promotion of the long term interests of energy consumers. This new objective is reflected in the National Electricity Law as the key objective for the national electricity market.

New regulatory arrangements

This Bill reforms the national electricity market governance arrangements by conferring functions and powers on two new bodies, the Australian Energy Market Commission, which was established under the South Australian *Australian Energy Market Commission Establishment Act 2004*, and the Australian Energy Regulator, established under the Commonwealth *Trade Practices Act 1974*. Importantly, the Bill also enshrines the policy-making role of the Ministerial Council on Energy in the context of the national electricity market.

The two new statutory bodies are initially to be responsible for electricity wholesale and transmission regulation in the national electricity market jurisdictions. Under the *Australian Energy Market Agreement*, the Australian Energy Regulator's role is to be extended this year, subject to separate legislation, to include the economic regulation of gas transmission for all jurisdictions other than Western Australia. Also, subject to separate legislation, the Australian Energy Market Commission's role is to be extended at the same time to include access rule-making for gas transmission and distribution for all jurisdictions. It is also proposed that a national framework for the regulation of electricity and gas distribution and retail (other than retail pricing) will be implemented during 2006 subject to jurisdictional agreement on that framework.

Under the new regulatory arrangements, the Ministerial Council on Energy will have a high level policy oversight role for the national electricity market. This will ensure that the relevant governments are able to set the key policy directions for the national electricity market and thereby pursue the objectives in the *Australian Energy Market Agreement*. Conversely, it is not intended that the Ministerial Council on Energy will become involved in the day-to-day operational activities of the Australian Energy Regulator or the Australian Energy Market Commission, or in the detail of the operation and development of the national electricity market within the set policy framework.

The functions of the National Electricity Market Management Company, which is responsible for the operation of the wholesale exchange and power system security, are retained under the new National Electricity Law.

As a result of these new regulatory arrangements, the National Electricity Code Administrator is to be abolished and its functions assumed by the Australian Energy Market Commission and the Australian Energy Regulator. The National Electricity Code Administrator is currently being wound down as part of a transition management process to the new regulatory framework. Its market

monitoring function will be retained in Adelaide as part of the Australian Energy Regulator, and its market development functions will be transferred to the Australian Energy Market Commission, which is to be located in Sydney. The National Electricity Tribunal is also being abolished through the repeal of Part 3 of the *National Electricity (South Australia) Act 1996*.

While a number of provisions of the current National Electricity Law have been retained as part of the new National Electricity Law, albeit with some amendments, the new regulatory arrangements have necessitated the inclusion of a range of additional provisions.

Consultation

All of these reforms have been the result of a public consultation process with industry participants and other stakeholders that began with consultation as part of the Parer Review during 2002. The Ministerial Council on Energy provided a substantial response to the Parer Review and other matters in its report "Reform of Energy Markets" on 11 December 2003. Further consultation has been undertaken on the implementation of the recommendations contained in the "Reform of Energy Markets" report such as the regulatory arrangements that will provide for cooperation between the Australian Energy Regulator, the Australian Energy Market Commission and the Australian Competition and Consumer Commission. Consultation has also occurred on the reforms proposed to date to the legislative and regulatory framework of the Australian energy market, the streamlined rule change process, and the proposal to convert the provisions of the current National Electricity Code into rules made under the new National Electricity Law.

Consultation on this Bill included an opportunity to provide initial written submissions on an exposure draft of the Bill, followed by final written submissions, and interested parties have also been given an opportunity to provide written submissions on an exposure draft of the National Electricity Rules. In addition, those who chose to make submissions have been given the opportunity to make an in-person verbal presentation, to senior officials administering the reform program, on the exposure drafts of both the Bill and the Rules. In total, 32 written submissions on the draft version of this Bill were received, and 15 in-person verbal presentations were made. I take this opportunity to thank all parties who made submissions for their valuable contribution to these important reforms. As you have heard, however, many of the constituent parts of the overall reform program, including important elements of this Bill, have also been subject to previous consultation processes.

National electricity market objective

An important feature of the new National Electricity Law is that it defines the scope of the national electricity market which is regulated under the new National Electricity Law and Rules, and provides a single clear national electricity market objective.

Under the new National Electricity Law, the national electricity market is comprised of the wholesale exchange that is operated and administered by the National Electricity Market Management Company under the Law and the Rules, as well as the national electricity system, that is, the interconnected electricity transmission and distribution system, together with connected generating systems, facilities and loads.

The national electricity market objective in the new National Electricity Law is to promote efficient investment in, and efficient use of, electricity services for the long term interests of consumers of electricity with respect to price, quality, reliability and security of supply of electricity, and the safety, reliability and security of the national electricity system.

The market objective is an economic concept and should be interpreted as such. For example, investment in and use of electricity services will be efficient when services are supplied in the long run at least cost, resources including infrastructure are used to deliver the greatest possible benefit and there is innovation and investment in response to changes in consumer needs and productive opportunities.

The long term interest of consumers of electricity requires the economic welfare of consumers, over the long term, to be maximised. If the National Electricity Market is efficient in an economic sense the long term economic interests of consumers in respect of price, quality, reliability, safety and security of electricity services will be maximised.

The single national electricity market objective replaces and subsumes the more specific list of "Market objectives" and "Code objectives" under the current Code. A significant catalyst for making this change was the policy position agreed to by governments in the *Australian Energy Market Agreement*. This policy position was that the Australian Energy Market Commission will be required to consider the "long term interests of consumers" in making any Rule change decisions. The single objective has the benefit of being clear and avoiding the potential conflict that may arise where a list of separate, and sometimes disparate, objectives is specified.

It is important to note that all participating jurisdictions remain committed to the goals expressed in the current market objectives set out in the old Code, even though they are not expressly referred to in the new single market objective. Applying an objective of economic efficiency recognises that, in a general sense, the national electricity market should be competitive, that any person wishing to enter the market should not be treated more nor less favourably than persons already participating in the market, and that particular energy sources or technologies should not be treated more nor less favourably than other energy sources or technologies. It is the intention of the Ministerial Council on Energy to issue a statement of policy principles under the National Electricity Law which will clarify these matters. The Australian Energy Market Commission, in performing its rule-making functions, is to have regard to this policy guidance.

Ministerial Council on Energy

The new National Electricity Law and Rules have been drafted to reflect the agreed position in the *Australian Energy Market Agreement* that the Ministerial Council on Energy will not be engaged directly in the day-to-day operation of the energy market or the conduct of regulators. The function of the Council will be to give high level policy direction to the Australian Energy Market Commission in relation to the national energy market.

The means by which the Ministerial Council on Energy will perform this role under the new National Electricity Law and Rules is, first, through its ability to direct the Australian Energy Market Commission to carry out a review and report to the Ministerial Council on Energy. Such a review may result in the Australian Energy Market Commission making recommendations to the Ministerial Council on Energy in relation to any relevant changes to the Rules that it considers are required. Secondly, the Ministerial Council on Energy may initiate a Rule change proposal including in response to a review or advice carried out or provided by the Australian Energy Market Commission as a result of a request by the Ministerial Council on Energy. A Ministerial Council on Energy initiated Rule change proposal will, of course, be subject to the ordinary Rule change process set out in the National Electricity Law. Thirdly, the Ministerial Council on Energy may publish statements of policy principles in relation to any matters that are relevant to the exercise by the Australian Energy Market Commission of its functions under the new National Electricity Law, or the Rules.

Ministerial Council on Energy statements of policy principles must be consistent with the national electricity market objective. The Council will be required to give a copy of such statements to the Commission which must then publish the statement in the South Australian Government Gazette and on the Commission's website.

Australian Energy Market Commission

The Australian Energy Market Commission has been established as a statutory commission. Under the new National Electricity Law and Rules, the Australian Energy Market Commission is responsible for Rule making and market development. Market development will occur as a result of the Rule review function.

In so far as its Rule making function is concerned, the Australian Energy Market Commission itself will generally not be empowered to initiate any change to the Rules other than where the proposed change seeks to correct a minor error or is non-material. Instead, its role is to manage the Rule change process and to consult and decide on Rule changes that are proposed by others, including the Ministerial Council on Energy, the Reliability Panel, industry participants and electricity users.

In so far as its market development function is concerned, the Australian Energy Market Commission must conduct such reviews into any matter related to the national electricity market or the Rules as are directed by the Ministerial Council on Energy. The Australian Energy Market Commission may also, of its own volition, conduct reviews into the operation and effectiveness of the Rules or any matter relating to them. These reviews may result in the Australian Energy Market Commission recommending changes to the Rules, in which case the Ministerial Council on Energy, or any other person, can then decide to initiate a Rule change proposal based on these recommendations through the Rule change process.

In performing its functions under the new National Electricity Law and Rules, the Australian Energy Market Commission will be required to have regard to the national electricity market objective. Further, the Australian Energy Market Commission must have regard

to any relevant Ministerial Council on Energy statements of policy principles in making a Rule change or conducting a review into any matter relating to the Rules.

However, the Australian Energy Market Commission will not have the power to compulsorily acquire information for the purpose of performing its rule-making and market development functions. In carrying out these functions, the Commission is expected to rely on voluntary participation by interested parties and established industry relationships.

Australian Energy Regulator

The Australian Energy Regulator has been established as a statutory body. Under the new National Electricity Law and Rules, the Australian Energy Regulator has enforcement, compliance monitoring, and economic regulatory functions. The Australian Energy Regulator will also take over the National Electricity Code Administrator's function of granting to transmission and distribution system operators any exemptions from the obligation to register.

In relation to its enforcement functions, the Australian Energy Regulator will be able to authorise an officer to apply to a magistrate for the issue of a search warrant where there are reasonable grounds for believing that there has been or will be a breach or possible breach of a provision of the new National Electricity Law or the Rules. Moreover, the Australian Energy Regulator is the body that is charged with bringing court proceedings in respect of breaches of the new National Electricity Law or the Rules, except where the breach is of an offence provision. The Australian Energy Regulator may also issue infringement notices for certain breaches of the Law and Rules.

The Australian Energy Regulator's compliance monitoring role will include monitoring compliance with the Rules for example, verifying and substantiating rebids by generators into the wholesale exchange.

The new National Electricity Law also empowers the Australian Energy Regulator to obtain information or documents from any person where such information or documents are required by the Australian Energy Regulator for the purposes of performing or exercising any of its functions or powers. However, persons are not required to provide information or documents pursuant to such a notice where they have a reasonable excuse for not doing so, such as that the person is not capable of complying with the notice. Information that is subject to legal professional privilege is also protected from disclosure pursuant to such a notice.

The Australian Energy Regulator will also be responsible for the economic regulation of electricity transmission services in the national electricity market jurisdictions and, to this end, will take over the Australian Competition and Consumer Commission's functions in relation to the regulation of revenue and pricing for electricity transmission services.

The Australian Energy Regulator will be required to exercise its economic regulatory functions in a manner that will or is likely to contribute to the achievement of the national electricity market objective. If such a function relates to the making of a transmission revenue or price determination, the Australian Energy Regulator must ensure that the regulated transmission system operator is informed of the material issues being considered by the Australian Energy Regulator and has a reasonable opportunity to make submissions before the determination is made. Further, the Regulator must, when making a transmission revenue or price determination in accordance with the Rules, provide a reasonable opportunity for the transmission system operator to recover the efficient costs in complying with various regulatory obligations. In addition, the Regulator must provide effective incentives to the operator to promote the efficient provision of regulated services, including the making of efficient investments. The Regulator must also make allowance for the value to be determined in accordance with the Rules of the operator's existing and proposed new assets and have regard to previous asset valuations.

Placing these principles in the Law, rather than the Rules, ensures that they cannot be changed by the normal rule change process and instead must be changed by legislation, thereby providing greater certainty for the industry and consumers on the regulatory practice of the Australian Energy Regulator.

The new National Electricity Law enhances the accountability of regulation by prescribing minimum requirements for the Australian Energy Regulator when performing its economic regulatory functions, such as making revenue and price determinations. The Rules will set out the Australian Energy Regulator's economic regulatory functions in more detail, consistent with the Law.

The new National Electricity Law requires that the Australian Energy Market Commission, by 1 July 2006, make Rules on a range of matters relating to transmission revenues and pricing that are set out in the new National Electricity Law. The National Electricity Law prescribes objectives that must be achieved by those Rules. Those Rules will relate to the Australian Energy Regulator's economic regulatory functions and will be subject to the general rule making process.

National Electricity Market Management Company

Consistent with the strengthening of the governance arrangements for the national electricity market, key functions of the National Electricity Market Management Company have been elevated to the new National Electricity Law. The National Electricity Market Management Company's functions remain substantially the same as currently exist in the Code.

The National Electricity Market Management Company will continue to operate, administer, develop, and improve the wholesale exchange for electricity, to register participants, and exempt generators and purchasers from the requirement to register, to maintain and improve power system security and to coordinate the planning of augmentations to the national electricity system. It will also have any other functions conferred on it under the National Electricity Law and Rules.

Reliability Panel

The National Electricity Code currently provides for the establishment of the Reliability Panel. However, under the new National Electricity Law, the obligation to establish the Reliability Panel is imposed as a statutory obligation on the Australian Energy Market Commission. The Reliability Panel's functions, as set out in the new National Electricity Law, include monitoring, reviewing and reporting on the safety, security and reliability of the national electricity system, as well as performing other functions relating to power system security under the Rules. In addition, the Australian Energy Market Commission may from time to time require the Reliability Panel to provide it with advice in relation to the safety, security and reliability of the national electricity system.

Under the Rules, the representative nature of the Reliability Panel will be enhanced by the requirement that it include representatives of the retailers, generators, transmission and distribution providers and end users. Decisions of the Reliability Panel will be required to be taken by way of majority vote.

Rule making under the new National Electricity Law

The new National Electricity Law empowers the Australian Energy Market Commission to make Rules relating to the operation of the national electricity market, the operation of the national electricity system for the purposes of the safety, security and reliability of that system, and the activities of persons who participate in the national electricity market or are involved in the operation of the national electricity system. Examples of specific matters in respect of which the Commission will be able to make Rules include the registration and exemption of persons under the new National Electricity Law and Rules, participant fees, the setting of prices, including maximum and minimum prices, for electricity purchased through the wholesale exchange, the operation of generating, transmission and distribution systems and other facilities, access to and augmentation of transmission and distribution systems, the economic regulation of transmission and distribution services, metering and disputes in relation to the Rules.

The Australian Energy Market Commission may make a Rule following a Rule change proposal if it is satisfied that the Rule will, or is likely to, contribute to the achievement of the national electricity market objective. For these purposes, the Commission may give the various aspects of the national electricity market objective such weight as it considers appropriate in all the circumstances, having regard to any relevant Ministerial Council on Energy statement of policy principles.

The 2003 Ministerial Council on Energy Report foreshadowed the need for more active participation of energy users and suppliers in the development of energy markets. To facilitate this in the context of the national electricity market, the new National Electricity Law enables any person to initiate a Rule change proposal, including industry participants, end users, the Ministerial Council on Energy and, to the extent the Rule change proposal relates to its functions, the Reliability Panel. The exception is that, in most cases, the Australian Energy Market Commission will not itself be able to initiate a Rule change proposal. This is in accordance with the policy position, stated by the Ministerial Council on Energy in its December 2003 Report, that the initiator of a rule change should not also decide whether the rule change should be made. However, the Commission

will be able to initiate a Rule change where the change is to correct a minor error or involves a non-material change to the proposed Rules. In addition, as previously stated, the new National Electricity Law requires the Australian Energy Market Commission to initiate certain Rules in relation to the economic regulation of electricity transmission. These Rules must be made by 1 July 2006.

The Rule change process set out in the new National Electricity Law is transparent and involves the opportunity for significant input by stakeholders. For example, the Australian Energy Market Commission will only be entitled not to proceed with a Rule change proposal under the Rule change process if the Rule change proposal does not contain the required information, is misconceived or lacking in substance or is beyond power. However, in such a case, the Australian Energy Market Commission must give the proponent of that change written reasons for its refusal to proceed with the Rule change proposal. Moreover, if a Rule change proposal satisfies these requirements, before making any Rule change arising out of the proposal, the Australian Energy Market Commission must publish notice of the Rule change proposal and invite submissions on it; may hold public hearings in relation to the Rule change proposal; must publish a draft Rule determination (including reasons) and invite submissions on it; and may hold a predetermination hearing.

The Australian Energy Market Commission's final Rule determination must then set out the reasons for that determination. In addition, the new National Electricity Law specifies the time-frames within which these steps must generally be taken, thereby providing a structured and timely Rule change process.

The Australian Energy Market Commission will also be empowered to expedite a Rule change proposal where the Rule change is unlikely to have a significant effect on the national electricity market or where the Rule change is urgent in the sense that it is necessary to avoid the effective operation or administration of the wholesale exchange, or the safety, security or reliability of the national electricity system, being prejudiced or threatened. But even then, public notice of the Rule change proposal must be given and the full Rule change process must be undertaken if there is a reasonable objection to the Rule change proposal being expedited.

A Memorandum of Understanding between the Australian Energy Market Commission, the Australian Energy Regulator, and the Australian Competition and Consumer Commission will define the protocols for early consultation in relation to a Rule change proposal to facilitate the timely and informed evaluation of Rule change proposals. It should be noted that, whereas the Australian Competition and Consumer Commission was previously required to authorise changes to the National Electricity Code under the *Trade Practices Act 1974* on the basis that the Code constituted an arrangement between industry participants, the replacement of the Code by the National Electricity Rules will obviate the need for authorisation of the proposed Rules or of changes to them.

The Australian Energy Market Commission is required to publish notice of a Rule change in the South Australian Government Gazette. It must also publish the Rule change on its website and make copies of it available at its office. In addition, the Australian Energy Market Commission is required to publish an up-to-date copy of all the National Electricity Rules on its website.

The new National Electricity Law provides for participant and jurisdictional derogations to continue to be made, but under this new Rule change process. Under the Law, any person the subject of the Rules, including a registered participant or the National Electricity Market Management Company, may initiate a participant derogation as a Rule change proposal. Broadly speaking, a participant derogation is a Rule which, for a specified period of time, exempts the relevant person, or a class of which that person is a member, from complying with another Rule, or which modifies the application of another Rule to that person or class. Equally, under the new National Electricity Law, a Minister of a participating jurisdiction may initiate a jurisdictional derogation as a Rule change proposal. Broadly speaking, a jurisdictional derogation is a Rule which exempts a person or class of persons from complying with another Rule in the relevant participating jurisdiction or which modifies the application of another Rule to that person or class in the participating jurisdiction. The new National Electricity Law does, however, specify some factors to which the Australian Energy Market Commission must have regard in determining a proposal for a jurisdictional derogation.

Given the need to have Rules in place at the same time as the National Electricity Law comes into operation, the initial National Electricity Rules will not be made under this Rule change process. Instead, they will be made, on the recommendation of the Ministerial Council on Energy, by a Ministerial notice.

The initial Rules will largely consist of the provisions of the current National Electricity Code as amended to accommodate the reforms contained in the new National Electricity Law, the new governance and institutional arrangements, the status of the Rules as law, and various other consequential modifications. However, once made, these Rules will be subject to change in accordance with the new Rule change process, including through the application of the Rule making test and the public consultation arrangements. It is important to note that this initial Rule making power can only be exercised once.

Rights of review including merits review

The new National Electricity Law provides for judicial review of decisions and associated conduct of the Australian Energy Market Commission and the National Electricity Market Management Company under the Law and the Rules. Any person whose interests are affected by a decision of either of these bodies may apply to a Court for judicial review of that decision. Conversely, the new regulatory arrangements do not provide for merits review of decisions of these bodies. In the case of the Australian Energy Market Commission, the reason for this is that the Commission is performing a statutory function as a rule-maker, and the process that it must follow for this purpose is transparent and entails considerable public consultation. Under the current National Electricity Law and the National Electricity Code, certain decisions of the National Electricity Market Management Company are reviewable by the National Electricity Tribunal. However, the abolition of the National Electricity Tribunal as part of the new regulatory arrangements means that there is now no scope for the merits review of such decisions.

Decisions of the Australian Energy Regulator are subject to judicial review under the *Administrative Decisions (Judicial Review) Act 1977 (Cth)*. Again, merits review is not available for decisions of the Australian Energy Regulator under the new National Electricity Law and Rules, and this is consistent with the position under the current arrangements where merits review of the Australian Competition and Consumer Commission's electricity transmission revenue determinations is not available.

Nonetheless, the Ministerial Council on Energy has undertaken to reconsider the issue of merits review for electricity when it makes its response to the Productivity Commission's *Review of the Gas Access Regime*.

Enforcement

The new National Electricity Law makes a number of important changes in relation to the enforcement of the National Electricity Law, the Regulations made under the *National Electricity (South Australia) Act 1996* and the National Electricity Rules.

In particular, while the National Electricity Rules have the force of law and thus are binding on all persons to whom they apply, the new National Electricity Law provides that, generally, proceedings for a breach of the National Electricity Rules can only be brought against a person who is a "relevant participant". For these purposes, a "relevant participant" includes registered participants and the National Electricity Market Management Company – that is, those persons who are currently bound by the National Electricity Code. However, the new National Electricity Law also provides for additional categories of persons to be prescribed by the Regulations as "relevant participants". At least initially, this power will only be used to ensure that persons who have previously been bound by contract to comply with the National Electricity Code may now have the National Electricity Rules enforced directly against them as law.

Under the new regulatory regime, only the Australian Energy Regulator is able to bring proceedings for a breach by a relevant participant of the new National Electricity Law, the Regulations made under the *National Electricity (South Australia) Act 1996* or the National Electricity Rules. The exception is where the breach is a breach of an offence provision. Such provisions include those contained in the current National Electricity Law, such as obstructing or hindering the National Electricity Market Management Company or a person authorised by it in exercising certain powers relating to power system security and obstructing or hindering the execution of a search warrant, as well as the new offences of failing to comply with a notice to provide information or documents to the Australian Energy Regulator or knowingly providing false or misleading information in response to such a notice. The prosecution of these kinds of offences will be within the general prosecution regimes of the Commonwealth, States and Territories.

The Australian Energy Regulator will be able to bring proceedings for a breach by a relevant participant of the new National Electricity law, the Regulations or the Rules in a State or Territory

Supreme Court or the Federal Court, as appropriate. For the purposes of such proceedings, the Court may make an order declaring that the relevant participant is in breach of the new National Electricity Law, the Regulations or the Rules. If the Court makes such a declaration, the Court may also order the person to pay a civil penalty (for prescribed civil penalty provisions), to desist from the breach, to remedy the breach or to implement a compliance program.

As is the case under the current National Electricity Law, provision is made for the Regulations to prescribe provisions of the National Electricity Rules, as well as provisions of the new National Electricity Law, the breach of which will attract a civil penalty. However, under the new regulatory regime, the current graduated civil penalties scheme will be replaced by a maximum civil penalty of $100 000 and $10 000 for every day during which the breach continues (in the case of a body corporate) and of $20 000 and $2 000 for every day during which the breach continues (in case of a natural person). The exception is where the relevant provision is prescribed as a rebidding civil penalty provision, in which case the maximum civil penalty will be $1 000 000 and $50 000 for every day during which the breach continues. Nonetheless, this replacement of the current graduated civil penalty scheme should not be taken to indicate that all breaches of civil penalty provisions are of the same seriousness or that a breach of a provision that previously attracted a lower civil penalty should now be regarded as more serious and warranting a higher civil penalty. Rather, the changes have been made to simplify the civil penalties regime, and the Courts should determine the appropriate amount of the civil penalty having regard to the circumstances of each particular breach.

In addition to the orders described above, where the relevant participant is a registered participant, the Court may direct the disconnection of that registered participant's loads in accordance with the Rules or may direct that the registered participant be suspended from purchasing or supplying electricity through the wholesale exchange.

The Australian Energy Regulator may also apply to the Court for an injunction where a relevant participant has engaged in, is engaging in or is proposing to engage in conduct in breach of the new National Electricity Law, the Regulations or the Rules.

Under the new National Electricity Law a relevant participant who attempts to commit a breach of a civil penalty provision is taken to have committed that breach and persons who are in any way directly or indirectly knowingly concerned in, or party to, a breach of a civil penalty provision by a relevant participant are also liable for a breach of that provision. As is the case under the current National Electricity Law, officers of corporations which breach a civil penalty provision will also be liable for that breach if they knowingly authorised or permitted it.

The last element of the new enforcement regime is the ability of the Australian Energy Regulator to serve an infringement notice on a relevant participant for breach of any civil penalty provision, other than a rebidding civil penalty provision. A person who receives such a notice may either pay the infringement penalty, or defend, in court, any proceedings brought by the Australian Energy Regulator in respect of the breach. The amount of the infringement penalty is $20 000 (for a body corporate) and $4 000 (for a natural person), or such lesser amount as is prescribed by the Regulations for the particular civil penalty provision.

While persons other than the Australian Energy Regulator cannot bring proceedings for a breach of the National Electricity Rules, the initial Rules, like the National Electricity Code, will provide for a dispute resolution procedure that can be availed of to resolve disputes under the Rules between registered participants or between a registered participant and the National Electricity Market Management Company. A party to such a dispute will be entitled to appeal to a Court on a question of law against a decision of a dispute resolution panel established under that procedure. Also, payments between registered participants, or between the National Electricity Market Management Company and registered participants, under the Rules, may be enforced in a court.

Information sharing

The Australian Energy Market Commission, Australian Energy Regulator and Australian Competition and Consumer Commission will be empowered to share information that they obtain with each of the other bodies where that information is relevant to the functions of those other bodies.

Any information provided on a confidential basis to one regulatory body, including information provided on a "commercial-in-confidence" basis, may be provided to the other regulatory body subject to any conditions imposed to protect that information from unauthorised use or disclosure by the receiving body.

Immunities

The new National Electricity Law substantially replicates the statutory immunities that are contained in the current National Electricity Law. However, a new immunity applies to a member, the chief executive officer or the staff of the Australian Energy Market Commission from personal liability for an act or omission in good faith in the performance or exercise of a function or power under the new National Electricity Law, the Regulations or the Rules. In such circumstances liability lies instead against the Commission.

Access

The access arrangements for the national electricity market are yet to be settled by the Ministerial Council on Energy. Accordingly, the National Electricity Law is silent on the issue and the status quo will be maintained for the present time. Until the Ministerial Council on Energy finalises its position on access, there is no intention to seek approval of the Rules by the Australian Competition and Consumer Commission as an industry access code. It is intended that the Ministerial Council on Energy will decide on this matter in the first half of 2005. Prior to implementation of the agreed approach on energy access issues for the future, appropriate opportunity for consultation with industry participants and other stakeholders will be made available.

Renewable energy

The South Australian Government remains strongly committed to renewable energy. The new National Electricity Law does not explicitly address environmental issues such as greenhouse. A future program of reform identified in the "Reform of Energy Markets" paper and the *Australian Energy Market Agreement* objectives will address issues such as user participation, barriers to distributed and renewable generation and further integration of the national electricity and gas markets over time. Addressing these issues is likely to reduce greenhouse emissions in an economically efficient manner.

Regulations made under the National Electricity Law

The expanded scope of the new National Electricity Law has resulted in an increase in the number of matters that are required to be the subject of the Regulations under the *National Electricity (South Australia) Act 1996*. As a result, the Bill broadens the regulation making power for the purposes of that Act and the National Electricity Law. The new regulation making power enables Regulations to be made where they are contemplated by, or necessary or expedient for the purpose of, the National Electricity Law. However, the extent of the Regulations that may be made is constrained by the provisions of the National Electricity Law and Regulations could not be made to implement extensive changes, such as the transfer of distribution and retail regulation to the Australian Energy Regulator. Such changes would necessitate a return to Parliament.

The Regulation making power has caused some concern because the Regulations are exempt from certain provisions of the South Australian *Subordinate Legislation Act 1978*—that is, they are not subject to disallowance by the South Australian Parliament. Nonetheless, it is inappropriate that one Parliament can disallow regulations that have been agreed to on a co-operative basis by all participating jurisdictions. An important safeguard, however, is that Regulations can only be made with the unanimous agreement of all relevant Ministerial Council on Energy Ministers.

Nevertheless, in recognition of the concern that has been expressed, it is the intention of the Ministerial Council on Energy that all draft Regulations will be released for consultation where timing permits this and the subject matter warrants it.

Savings and transitionals

To ensure a smooth transition to the new National Electricity Law and Rules, savings and transitional provisions are included in the new Law. Additional savings and transitional provisions will also be included in the Regulations, and a specific regulation making power has been included under the *National Electricity (South Australia) Act 1996* for this purpose. The savings and transitional provisions contained in the new National Electricity Law include provisions dealing with matters such as the making of rules that are currently in process under the National Electricity Code, the continuation of the registration of Code participants and associated exemptions under the National Electricity Rules, the substitution of references to the National Electricity Rules for references to the National Electricity Code, and a deemed "no change of law" provision as a result of the substitution of the new National Electricity Law and the making of the initial National Electricity Rules. In addition, it is provided that

the undertakings given by Code participants to be bound by the National Electricity Code as a result of their registration as Code participants cease to have any effect.

Tasmania's national electricity market entry

As I mentioned earlier, Tasmania is scheduled to join the national electricity market on 29 May this year. Entry to the national electricity market and interconnection with the mainland later this year following the commissioning of Basslink, is a key element of Tasmania's Energy Reform Framework.

Tasmania's national electricity market entry and Basslink will make a significant contribution to the development of a more connected, larger and more secure electricity system in south eastern Australia. This has been identified by the National Electricity Market Management Company as a key issue in the Statement of Opportunity.

For Tasmania, national electricity market entry and Basslink will enable the introduction of sustainable competition and customer choice, while providing a robust framework for further investment in the Tasmania electricity supply industry.

Interpretation provisions

Like the existing National Electricity Law, the new Law includes a schedule of interpretive provisions. This Schedule 2 to the new Law means the Law is subject to uniform interpretation provisions in all participating jurisdictions.

As I noted at the beginning of this speech, this Bill will strengthen and improve the quality, timeliness and national character of the governance and economic regulation of the national electricity market, for the benefit of South Australians and all Australians. I commend this Bill to the House.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

The measure is to be commenced by proclamation. The clause also excludes the application of section 7(5) of the *Acts Interpretation Act 1915* which would otherwise ensure automatic commencement of the measure if it were not proclaimed to commence within 2 years after being assented to by the Governor.

3—Exercise of rule-making power under new National Electricity Law following assent

Under clause 12, the new National Electricity Law is to replace the current National Electricity Law by substitution of the Schedule of the *National Electricity (South Australia) Act 1996* .This clause, that is, clause 3, empowers the Minister to make the proposed new National Electricity Rules (***the Rules***)under section 90 of the new National Electricity Law before the commencement of the new National Electricity Law, but provides that Rules so made will not take effect until that commencement or a later day specified in the notice published under section 90.

4—Amendment provisions

This clause is formal.

Part 2—Amendment of *National Electricity (South Australia) Act 1996*

5—Repeal of Preamble

The preamble (which formed part of the *National Electricity (South Australia) Act 1996* when the Act was enacted in 1996) is repealed. Given the changes to the legislative scheme since 1996, the text of the preamble is no longer apposite or helpful to readers of the Act.

6—Amendment of section 8—Interpretation of some expressions in *National Electricity (South Australia) Law* and *National Electricity (South Australia) Regulations*

Schedule 2 of new National Electricity Law contains comprehensive interpretation provisions applicable to the new National Electricity Law, the Regulations under the *National Electricity (South Australia) Act 1996* and the Rules. As a result, this clause excludes the application of the *Acts Interpretation Act 1915* to the Law (and hence the Rules) and the Regulations.

7—Repeal of Part 3

Part 3 of the *National Electricity (South Australia) Act 1996* provides for the establishment of the National Electricity Tribunal. This Part is repealed. The new National Electricity Law transfers the functions of the Tribunal to the Supreme Courts of the participating jurisdictions.

8—Amendment of heading to Part 4

Part 4 of the *National Electricity (South Australia) Act 1996* provides for the making of regulations for the purposes of the National Electricity Law. This clause amends the heading to the Part so that it will also now refer to the making of the Rules.

9—Amendment of section 11—General regulation-making power for National Electricity Law

The general regulation-making power for the National Electricity Law is widened. All Regulations under the *National Electricity (South Australia) Act 1996* may now only be made on the unanimous recommendation of the Ministers of the participating jurisdictions.

10—Substitution of sections 12 and 13

Section 12 of the *National Electricity (South Australia) Act 1996* currently contains certain limited specific regulation-making powers for the National Electricity Law. The section is replaced by a new provision containing a regulation-making power to deal with transitional matters relating to the transition from the application of provisions of the current National Electricity Law to the application of provisions of the new National Electricity Law. The provision is closely modelled on provision in the *Corporations (Ancillary Provisions) Act 2001*.

Section 13 of the *National Electricity (South Australia) Act 1996* currently provides for regulations to be made relating to the civil penalties scheme of the National Electricity Law. The new National Electricity Law does not require any such supporting regulations relating to civil penalties. As a result, section 13 is repealed. In its place there is to be a new provision making it clear that the provisions of the *Subordinate Legislation Act 1978* relating to rules will not apply to the Rules under the new National Electricity Law.

11—Amendment of section 14—Freedom of information

These amendments are consequential on the removal of a role for NECA in the proposed new national electricity administrative arrangements.

12—Substitution of Schedule

This clause provides for the replacement of the National Electricity Law which is contained in the current Schedule of the Act.

Schedule—National Electricity Law

Part 1—Preliminary

1—Citation

Provides that this Law may be referred to as the National Electricity Law (the NEL).

2—Definitions

Sets out definitions used in the NEL.

3—Interpretation generally

Provides that Schedule 2 to the NEL, which contains interpretation provisions, applies to the NEL, to Regulations made under the National Electricity (South Australia) Act 1996 (the Regulations) and to the National Electricity Rules made under the NEL (the Rules).

4—Savings and transitionals

Provides that Schedule 3 to the NEL, which sets out savings and transitional provisions, has effect.

5—Participating jurisdiction

Provides for the participating jurisdictions, which will be South Australia together with the Commonwealth, any other State and any Territory that has in place a law that applies the NEL as a law of that jurisdiction.

6—Ministers of participating jurisdictions

Provides for the relevant Ministers of the participating jurisdictions.

7—National electricity market objective

Sets out the national electricity market objective.

8—MCE statements of policy principles

Provides that the Ministerial Council on Energy (MCE) may issue statements of policy principles in relation to any matters that are relevant to the functions and powers of the Australian Energy Market Commission (AEMC); such statements must be published in the South Australian Government Gazette by the AEMC.

9—National Electricity Rules to have force of law

Provides for the Rules to have the force of law in each of the participating jurisdictions.

10—Application of this Law and Regulations to coastal waters of this jurisdiction

Provides for the application of the NEL and the Regulations to coastal waters.

Part 2—Participation in the National Electricity Market

11—Registration required to undertake certain activities in the national electricity market

Prohibits a person engaging in certain activities unless the person is registered or is the subject of a derogation or otherwise exempted from registration.

12—Registration or exemption of persons participating in the national electricity market

Provides for requests to the National Electricity Market Management Company (NEMMCO) for registration or exemption from registration.

13—Exemptions for transmission system or distribution system owners, controllers and operators

Provides for requests to the Australian Energy Market Regulator (AER) for exemption from registration in relation to transmission and distribution systems.

14—Evidence as to Registered participants and exemptions

Is an evidentiary provision relating to registration and exemption.

Part 3—Functions and Powers of the Australian Energy Regulator

This Part provides for the functions and powers of the Australian Energy Market Commission established by section 5 of the Australian Energy Market Commission Establishment Act 2004 of South Australia (the AEMC Act).

Division 1—General

15—Functions and powers of the AER

Sets out the AER's functions and powers.

16—Manner in which AER must perform or exercise AER economic regulatory functions or powers

Makes provision in relation to the manner in which the AER must perform or exercise the AER's economic regulatory functions or powers.

17—Delegations

Provides that a delegation by the AER under section 44AAH of the TPA is effective for the purposes of the NEL, Regulations and Rules.

18—Confidentiality

Provides that the confidentiality provisions of section 44AAF of the TPA are effective for the purposes of the NEL, Regulations and Rules.

Division 2—Investigation Powers

19—Definitions

Sets out definitions for the purposes of this Division.

20—Authorised person

Provides that the AER may authorise persons to be authorised persons for the purposes of this Division.

21—Search warrant

Provides for the issue of search warrants by a magistrate.

22—Announcement before entry

Provides for announcement before entry to a place in execution of a search warrant.

23—Details of warrant to be given to occupier

Requires certain details of a search warrant to be given to the occupier of premises

24—Copies of seized documents

Requires a certified copy of a seized document to be provided to the person from whom it was seized in execution of a search warrant.

25—Retention and return of seized documents or things

Provides for return of documents or other things seized in execution of a search warrant.

26—Period for retention of documents or things seized may be extended

Provides for extension of the period within which a document or other thing must be returned.

27—Obstruction of persons authorised to enter

Creates an offence of obstructing or hindering a person in the exercise of power under a warrant, for which the penalty is a fine of up to $2 000 for a natural person or up to $10 000 for a body corporate.

28—Power to obtain information and documents in relation to performance and exercise of functions and powers

Provides that the AER may serve notices requiring information to be furnished or documents to be produced and creates an offence of failing to comply with such a notice, for which the penalty is a fine of up to $2 000 for a natural person or up to $10 000 for a body corporate.

Part 4—Functions and Powers of the Australian Energy Market Commission

This Part provides for the functions and powers of the Australian Energy Regulator established by section 44AE of the Trade Practices Act 1974 of the Commonwealth (the TPA).

Division 1—General

29—Functions and powers of the AEMC

Sets out the AEMC's functions and powers.

30—Delegations

Provides that a delegation by the AEMC under section 20 of the AEMC Act is effective for the purposes of the NEL, Regulations and Rules.

31—Confidentiality

Provides that the confidentiality provisions of section 24 of the AEMC Act are effective for the purposes of the NEL, Regulations and Rules.

32—AEMC must have regard to national electricity market objective

Provides that the AEMC must have regard to the national electricity market objective.

33—AEMC must have regard to MCE statements of policy principles in relation to Rule making and reviews

Provides that the AEMC must have regard to any relevant MCE statements of policy principles in making a Rule or conducting certain reviews.

Division 2—Rule Making Functions and Powers of the AEMC

34—Subject matter for National Electricity Rules

Provides for the subject matter of the Rules; Schedule 1 to the NEL also specifies matters about which the AEMC may make Rules.

35—Rules in relation to economic regulation of transmission systems

Provides for the making of Rules in relation to economic regulation of transmission systems.

36—National Electricity Rules to always provide for certain matters relating to transmission systems

Provides that the Rules are at all times to provide for certain matters relating to transmission systems.

37—Documents etc. applied, adopted and incorporated by Rules to be publicly available

Requires documents applied, adopted or incorporated by a Rule to be publicly available.

Division 3—Committees, Panels and Working Groups of the AEMC

38—The Reliability Panel

Provides for the AEMC to establish a Reliability Panel.

39—Establishment of committees and panels (other than the Reliability Panel) and working groups

Provides for establishment of committees, panels (other than the Reliability Panel) and working groups by the AEMC.

Division 4—MCE Directed Reviews

40—Definition

Sets out a definition for the purposes of this Division.

41—MCE directions

Provides that the MCE may direct the AEMC to conduct reviews; such a direction must be published in the South Australian Government Gazette.

42—Terms of reference

Provides for the terms of reference of MCE directed reviews.

43—Notice of MCE directed review

Requires the AEMC to publish notice of an MCE directed review.

44—Conduct of MCE directed review

Provides for the conduct of MCE directed reviews.

Division 5—Other Reviews

45—Reviews by the AEMC

Provides for reviews by the AEMC other than MCE directed reviews.

Division 6—Miscellaneous

46—AEMC must publish and make available up to date versions of the National Electricity Rules

Requires the AEMC to maintain an up to date copy of the Rules on its website and to make copies of the Rules available for inspection at its offices.

47—Fees for services provided

Provides for the AEMC to charge fees as specified in the Regulations.

48—Confidentiality of information received for the purposes of a review

Provides for the confidentiality of information provided to the AEMC for the purposes of a review.

Part 5—Role of NEMMCO under the National Electricity Law

Division 1—Conferral of Certain Functions

49—Functions of NEMMCO in respect of national electricity market

Sets out NEMMCO's functions in respect of the national electricity market.

50—Operation and administration of national electricity market

Provides for how NEMMCO must perform its functions.

51—NEMMCO not to be taken to be engaged in the activity of controlling or operating a generating, transmission or distribution system

Provides that NEMMCO is not to be taken to be engaged in certain activities by reason only of it performing functions conferred under the NEL and Rules.

52—Delegation

Provides for NEMMCO to be able to delegate functions and powers.

Division 2—Statutory Funds of NEMMCO

53—Definitions

Sets out definitions for the purposes of this Division.

54—Rule funds of NEMMCO

Provides for the continuation and establishment of Rule funds.

55—Payments into Rule funds

Provides for payments into Rule funds.

56—Investment

Provides for investment of moneys in Rule funds.

57—NEMMCO not trustee

Provides that neither NEMMCO nor its directors are to be taken to be trustees of a Rule fund.

Part 6—Proceedings under the National Electricity Law

Division 1—General

58—Definitions

Sets out definitions for the purposes of this Part.

59—Instituting civil proceedings under this Law

Provides that proceedings for breach of the NEL, Regulations or Rules may not be instituted except as provided in this Part.

Division 2—Proceedings by the AER in respect of this Law, the Regulations and the Rules

60—Time limit within which AER may institute proceedings

Provides for the time limit within which proceedings may be instituted.

61—Proceedings for breaches of a provision of this Law, the Regulations or the Rules that are not offences

Provides for the orders that may be made in proceedings in respect of breaches of provisions of the NEL, Regulations or Rules that are not offence provisions.

62—Additional Court orders for Registered participants in breach

Provides that the Court may, in an order under clause 61, also direct disconnection of loads or suspension of purchase or supply through the wholesale exchange.

63—Orders for disconnection in certain circumstances where there is no breach

Provides that the Court may order disconnection in circumstances, as specified in the Rules, which are not breaches.

64—Matters for which there must be regard in determining amount of civil penalty

Sets out matters to be taken into account in determining civil penalties.

65—Breach of a civil penalty provision is not an offence

Provides that a breach of a civil penalty provision (as defined in clause 58) is not an offence.

66—Breaches of civil penalties involving continuing failure

Provides for breaches of civil penalty provisions involving continuing failure.

67—Conduct in breach of more than one civil penalty provision

Provides for liability for one civil penalty in respect of the same conduct constituting a breach of two or more civil penalty provisions.

68—Persons involved in breach of civil penalty provision

Provides for aiding, abetting, counselling, procuring or being knowingly concerned in or party to a breach of a civil penalty provision.

69—Civil penalties payable to the Commonwealth

Provides that civil penalties are payable to the Commonwealth.

Division 3—Judicial Review of Decisions and Determinations under this Law, the Regulations and the Rules

70—Applications for judicial review

Provides that aggrieved persons (as defined) may apply for judicial review in respect of AEMC or NEMMCO decisions and determinations; the operation of a decision or determination is not affected by an application for judicial review, unless the Court otherwise orders.

71—Appeals on questions of law from decisions or determinations of Dispute resolution panels

Provides for appeals on questions of law against a decision or determination of a dispute resolution panel (as defined in clause 58).

Division 4—Other Civil Proceedings

72—Obligations under Rules to make payments

Provides for proceedings in relation to the payment of amounts required under the Rules to be paid.

Division 5—Infringement Notices

73—Definition

Sets out a definition of "relevant civil penalty provision" for the purposes of this Division.

74—Power to serve a notice

Provides that the AER may serve infringement notices for breaches of relevant civil penalty provisions.

75—Form of notice

Provides for the form of the infringement notice.

76—Infringement penalty

Sets out the amount of the infringement penalty: $4 000, or such lesser amount as is prescribed in the Regulations, for a natural person; or $20 000, or such lesser amount as is prescribed in the Regulations, for a body corporate.

77—AER cannot institute proceedings while infringement notice on foot

Provides that the AER must not, without first withdrawing the infringement notice, institute proceedings for a breach until the period for payment under the infringement notice expires.

78—Late payment of penalty

Provides for when the AER may accept late payment of an infringement penalty.

79—Withdrawal of notice

Provides that the AER may withdraw an infringement notice.

80—Refund of infringement penalty

Provides for refund of an infringement penalty if the infringement notice is withdrawn.

81—Payment expiates breach of relevant civil penalty provision

Provides for expiation of a breach subject to an infringement notice.

82—Payment not to have certain consequences

Provides that payment of an infringement penalty is not to be taken to be an admission of a breach or of liability.

83—Conduct in breach of more than one civil penalty provision

Provides for payment of one infringement penalty in respect of the same conduct constituting a breach of two or more civil penalty provisions for which two or more infringement notices have been served.

Division 6—Miscellaneous

84—AER to inform certain persons of decisions not to investigate breaches, institute proceedings or serve infringement notices

Requires the AER to inform certain persons of decisions not to investigate breaches, institute proceedings or serve infringement notices.

85—Offences and breaches by corporations

Provides that an officer (as defined) of a corporation is also liable for a breach of an offence provision or civil penalty provision by the corporation if the officer knowingly authorised or permitted the breach.

86—Proceedings for breaches of certain provisions in relation to actions of officers and employees of relevant participants

Provides that an act committed by an officer (as defined) or employee of a relevant participant (as defined) will be a breach where the act, if committed by the relevant participant, would be a breach.

Part 7—The Making of the National Electricity Rules

Division 1—General

87—Definitions

Sets out definitions for the purposes of this Part.

88—Rule making test to be applied by AEMC

Sets out the test to be applied by the AEMC in making a Rule; the test refers to the national market objective (see clause 7).

89—AEMC must have regard to certain matters in relation to the making of jurisdictional derogations

Provides for certain matters to which the AEMC must have regard when making jurisdictional derogations.

Division 2—Initial National Electricity Rules

90—South Australian Minister to make initial National Electricity Rules

Provides for the South Australian Minister to make the initial Rules; a notice of making must be published in the South Australian Government Gazette and the Rules must be made publicly available.

Division 3—Procedure for the Making of a Rule by the AEMC

91—Initiation of making of a Rule

Provides for who may request the making of a Rule and also provides that the AEMC must not make a Rule on its own initiative except in certain circumstances.

92—Content of requests for a Rule

Sets out what a request for the making of a Rule must contain.

93—More than one request in relation to same or related subject matter

Provides for how multiple requests for the making of a Rule are to be treated.

94—Initial consideration of request for Rule

Provides for initial consideration by the AEMC of a request for a Rule.

95—Notice of proposed Rule

Requires the AEMC to give notice of a proposed Rule.

96—Non-controversial and urgent Rules

Provides for the making of non-controversial and urgent Rules.

97—Right to make written submissions and comments

Provides for the making of written submissions on a proposed Rule.

98—AEMC may hold public hearings before draft Rule determination

Provides for the holding of a hearing in relation to a proposed Rule.

99—Draft Rule determination

Requires the AEMC to publish its draft determination, including reasons, in relation to a proposed Rule.

100—Right to make written submissions and comments in relation to draft Rule determination

Provides for written submissions on a draft Rule determination.

101—Pre-final Rule determination hearing may be held

Provides for holding of a pre-final determination in relation to a draft Rule determination.

102—Final Rule determination as to whether to make a Rule

Requires the AEMC to publish its final Rule determination, including reasons.

103—Making of Rule

Requires the AEMC to make a Rule as soon as practicable after publication of its final Rule determination; notice of the making of a Rule must be published in the South Australian Government Gazette.

104—Operation and commencement of Rule

Provides that a Rule comes into operation on the day the notice of making is published or on such later date as is specified in that notice or the Rule.

105—Rule that is made to be published on website and made available to the public

Requires the AEMC, without delay after making a Rule, to publish the Rule on its website and make a copy available for inspection at its offices.

106—Evidence of the National Electricity Rules

Is an evidentiary provision relating to the Rules.

Division 4—Miscellaneous Provisions Relating to Rule Making by the AEMC

107—AEMC may extend certain periods of time specified in Division 3

Provides for extension of set periods relating to Rule making.

108—AEMC may publish written submissions and comments unless confidential

Provides that the AEMC may publish written submissions and also provides how confidential information received by it as part of the Rule making process is to be treated.

Part 8—Safety and Security of the National Electricity System

109—Definitions

Sets out definitions for the purposes of this Part.

110—Appointment of jurisdictional system security coordinator

Provides for appointment of a jurisdictional system security coordinator.

111—Jurisdictional system security coordinator to prepare jurisdictional load shedding guidelines

Provides for the preparation of jurisdictional load shedding guidelines.

112—NEMMCO to develop load shedding procedures for each participating jurisdiction

Requires NEMMCO to develop load shedding guidelines for each participating jurisdiction.

113—NEMMCO and jurisdictional system security coordinator to exchange load shedding information in certain circumstances

Provides for exchange of load shedding information in certain circumstances.

114—NEMMCO to ensure that the national electricity system is operated in manner that maintains the supply to sensitive loads

Requires NEMMCO to use reasonable endeavours to ensure the national electricity system is operated so as to maintain supply to sensitive loads.

115—Shedding and restoring of loads

Provides for shedding and restoring of loads.

116—Actions that may be taken to ensure safety and security of national electricity system

Provides for action that may be directed or authorised by NEMMCO to maintain power system security or for public safety.

117—NEMMCO to liaise with Minister of this jurisdiction and others during an emergency

Provides for liaison between NEMMCO and jurisdictions in cases of emergency.

118—Obstruction of persons exercising certain powers in relation to the safety and security of the national electricity system

Creates an offence of obstructing or hindering the exercise of powers under clause 116, for which the penalty is a fine of up to $20 000 for a natural person or up to $100 000 for a body corporate.

Part 9—Immunities

119—Immunity of NEMMCO and network service providers

Provides an immunity for NEMMCO and network service providers in certain circumstances.

120—Immunity in relation to failure to supply electricity

Provides an immunity in relation to failure to supply electricity.

121—Immunity from personal liability of AEMC officials

Provides an immunity from personal liability for AEMC officials (as defined).

Schedule 1—Subject matter for the National Electricity Rules

Specifies matters about which the AEMC may make Rules; see also clause 34.

Schedule 2—Miscellaneous provisions relating to interpretation

Contains interpretation provisions that will apply to the NEL, Regulations and Rules.

Schedule 3—Savings and transitionals

Sets out savings and transitional provisions.

Mr MEIER secured the adjournment of the debate.

COONGIE LAKES NATIONAL PARK

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

That this house requests Her Excellency the Governor to make a proclamation under section 34A(2) and section 28(1) of the National Parks and Wildlife Act 1972—

(a) excluding Allotment 100 of Plan No. DP 63648, Out of Hundreds (Innamincka), accepted for deposit in the Lands Titles Registration Office at Adelaide, from the Innamincka Regional Reserve; and

(b) constituting that excluded land as a national park with the name Coongie Lakes National Park.

The motion before the house seeks to establish the Coongie Lakes National Park. The new national park will be constituted over the core Coongie Lakes wetland and will be free of mining and grazing access. The new national park covers a part of the area proclaimed by the Governor as a 'no mining' zone in Innamincka Regional Reserve, the framework for which has previously been considered and approved by parliament.

Parliament's approval is required for the proclamation of the national park, as it is, effectively, an excision from the Innamincka Regional Reserve. Section 34A(2) of the National Parks and Wildlife Act 1972 allows that the Governor may, by proclamation, alter the boundaries of a regional reserve. Such a proclamation may only be made in pursuance of a resolution of both houses of parliament. The Coongie Lakes National Park will comprise the geographic centre of the Coongie Lakes Ramsar Wetlands of International Importance. The park will be in the order of 26 600 hectares. The Coongie Lakes area has been identified as a highly significant site of biological diversity. This high value largely stems from the area retaining large bodies of free-standing water for a year or more after the wider region enters drought.

The Coongie Lakes National Park will provide habitat for some 183 native bird species, including 25 migratory waterbird species recorded under international treaties. The park will conserve 11 native fish species, 18 native mammal species, 32 species of terrestrial reptiles and eight frog species. Around 330 native plant species have been recorded in the area. The park also provides great opportunities for low impact tourism and has become an iconic destination for many people, both here and interstate.

I acknowledge the assistance of S. Kidman and Co. in developing the arrangements for the new national park and thank them for their support in permanently excluding grazing from the area. I trust that I will receive the same support for this motion to constitute the Coongie Lakes National Park as was shown for the amendments to the National Parks and Wildlife Act to remove mining from the area.

I am personally very pleased to move this motion. It has come about after an enormous amount of effort by a whole range of individuals within both my department of environment and within the mining section of PIRSA. There was an enormous amount of consultation with various interested groups in the community and with the Kidman company, Santos, the Conservation Council and many others who have worked very hard to get this resolution. This is something of which all South Australians ought be proud. This is a unique area. I have flown over it once in a helicopter and it is an outstanding biological and geographical asset to this state with, as I said, great tourism potential. I hope many South Australians get the opportunity in future to see it and enjoy it. I commend this motion to the house.

The Hon. G.M. GUNN (Stuart): This is another occasion when I do not quite share the minister's enthusiasm. I am always cautious in these matters, and I sincerely hope that, when this matter passes through the parliament, it will not prevent a proper exploration or future drilling for oil and gas, because that general area of South Australia has huge economic benefits to the people of this state and we have to ensure that that is in no way impeded. We all know what happened when the gas plant at Moomba had to be shut down. If we have a shortage of gas in the future, it would have grave economic effects on the people of this state. I understand that the area is of great significance. I have had the pleasure of representing it for many years.

The Hon. J.D. Hill: You would have been there many times, no doubt.

The Hon. G.M. GUNN: Yes; representing it many times, and it is a part of the state which I enjoy going to. It is an area of the state which thousands of Australians visit, and you only have to go to Innamincka and see for yourself. I am a strong supporter of the need to manage those visitors to make sure that the area is not ruined. It is a great pity that the gentleman who runs the pump down at the creek is charged such exorbitant rates by national parks. He is penalised in an unreasonable fashion. This minister and ministers on this side have been unwilling, unwisely, to give that person a particular benefit. He is providing a service and a great deal of enjoyment to the people who come there but, if you stay at the hotel, they do not pay so much a head for the right people. He has to pay a dreadful tax.

I hope that this particular decision is as successful as the minister obviously believes it will be. I know that he and his officers are enthusiastic about this. I acknowledge the cooperation of Kidman and Co. who have always acted responsibly. Like the grazing industry, they are good corporate citizens. I think that, because of the manner in which many of these people have operated in recent years, we should reward them by giving them better titles to the land. That is a matter which I am sure that the minister and I am going to look forward to debating in the future. I sincerely hope that this particular area is managed efficiently. I also sincerely hope that the people who go there representing the department of environment and national parks are friendly to tourists and visitors. We do not want a repeat of the officers they had there a couple of years ago who seemed to have a particular dislike for tourists.

I realise that the house is going to support this. I will not hold up proceedings, but I wanted to make sure that the drawing of the lines for this particular national park have been carefully considered to ensure that they do not prevent future mining operations. I seek that assurance from the minister and sincerely hope that every step possible will be taken in the future to ensure that those people who want to visit that part of the state are assisted and helped and that adequate facilities are provided so that they can enjoy this unique part of South Australia.

The Hon. I.F. EVANS (Davenport): The opposition supports the motion; it has pleasure in doing so. The minister is aware that, prior to the last state election, the then government had an agreement with the Conservation Council and Santos that we would not announce the agreement that this government had the opportunity to announce prior to the election because Santos and the Conservation Council were in active negotiation and it was the request of both parties that we leave them the opportunity to negotiate the outcome that we are now debating and have debated previously, because it was unusual that the mining company and the Conservation Council could come to such an agreement. I took a decision as minister that, if they were happy to negotiate amicably and in the state's best interests, who was I to intervene? Ultimately, the time process took it past the election date as luck would have it. The current minister got the opportunity to announce the agreements that we have debated previously, so the opposition does support the formation of this particular national park. I, too, have been to the lakes area via helicopter through to the park, so I think it must be on one of those little lists they have for the new minister.

The Hon. J.D. Hill: I went with Santos.

The Hon. I.F. EVANS: Yes; that is right, to Santos and then out from there. That is how we went. It was interesting. The minister mentioned Kidman's agreement. I think it is important for the state that I place on the record the Kidman company's contribution to this national park. I will read a letter from Kidman and Co. into *Hansard* for the sake of state history. It is from S. Kidman and Co. Ltd dated 6 December 2004, addressed to the Parliament of South Australia, and it states:

> Dear Members,
> S. Kidman & Co. Ltd (Kidman) have executed the Deed of Agreement in respect to the surrender of portion of the Innamincka Pastoral Lease (described as Allotment 100 in Deposited Plan No.63648) for the creation of the new Coongie Lakes National Park. Kidman acknowledges that grazing will be permanently excluded from the parcel of land being surrendered for the National Park.
> Kidman has long understood the need for conservation of the Coongie Lakes and has fostered scientific endeavour and employed sensitive management practices around the lakes. Since 1996 these practices have included the fencing and voluntary exclusion of grazing from the principal Coongie Lakes. Kidman takes significant credit for the presentation of the lakes' environment in such good heart as to be worthy of gazettal for National Park.
> As a gesture marking the company's centenary of grazing operations at Innamincka Kidman has donated this land to conservation for no monetary consideration. The only reservation to Kidman in this grant is the guaranteed access to water and essential management access for those stock being so excluded. In the spirit of this donation in perpetuity, it is also expected that there will be no charge for water taken for livestock.
> Independent rural valuers have estimated the value of this donation to the people of South Australia to be worth $1.5 million.
> Yours sincerely,
> Greg Campbell
> General Manager

The reason I read that into *Hansard* is that Kidman has entered this agreement on a very clear understanding which I read out in the third paragraph, and that is that Kidman, in this grant, has guaranteed access to water and essential management access for those stock being so excluded and that, in the spirit of this donation, in perpetuity, it is also expected that there will be no charge for water taken for livestock. The reason I read that into *Hansard* is that in 50 or 100 years' time, if there is ever a debate about that issue, it is formally on the state record in the *Hansard* that that is the understanding which the parliament has in making this a national park. That is the agreement as I understand it that S. Kidman and Co. Ltd have in regard to this particular area. In supporting this particular motion, I would like the minister, or someone from the government, to confirm to the house that those conditions as outlined in the letter from S. Kidman and Co. Ltd are indeed the terms and conditions under which the agreement has been struck.

The Hon. W.A. MATTHEW (Bright): It is my intention to speak briefly to this motion before the house. I have some concern about the government's intent within this motion and would expect that this is probably the thin end of the wedge. It is well known that this minister has had concerns about the Coongie Lakes for some time and, indeed, we saw legislation before this place last year. I remain concerned that the minister did not have the knowledge at the time of the debate of that legislation that I believed was essential he obtain in relation to the prospectivity of the area for oil and modern mining methods. It remains a fact that many areas of our state can be prospectively mined and in such a way that there is no damage done to the environment. I was concerned that the minister at that time had inadequate knowledge about lateral drilling methods that are available in modern petroleum mining. Indeed, he initially indicated to the house that he suspected that the area being debated at that time was one that would not be prohibitive to lateral drilling. He then had to come back to the house and advise that his original understanding was incorrect and that lateral drilling would be prevented.

I do not dispute for one minute the fact that the area we are looking at tonight is a significant area in ecological terms, and I commend any endeavour to protect important wilderness areas of our state. However, the fact is that that can also be done utilising delicate balance. It concerns me that, as we continue to lock up more and more parts of the state through reserve lands, we are denying the opportunity to use modern technology to explore and to potentially mine those areas in the future in ways which will not be damaging to the ecology of the area.

In his remarks to the house, I would like the minister to advise whether or not this is the thin end of the wedge and whether more areas will continue to be added; whether there are areas under active consideration at this time and, if so, what those areas are. I also ask whether the minister has given further consideration to lateral drilling technology and whether this area and other areas would be available for petroleum mining in the future—sub-surface mining in such a way that there would be zero effect on the land surface in those areas being so mined.

Let us not forget that, when we are talking about petroleum mining, we are not talking about mining just beneath the surface. We are talking about mining many kilometres below

the surface, underneath the watertable in an area that is not going to affect the ecology. The lunacy of this government's approach has been effectively, in so far as petroleum mining is concerned, to lock those areas out, even though mining at depths of two, three or four kilometres underneath the earth's surface under these areas is going to have no detrimental effect. It is indeed a forward thinking and lateral thinking government that will consider modern methods and avail itself of those methods so that the prosperity of the state is looked after. Indeed, a creative government might even be encouraging of such an opportunity, particularly in an area such as this one and could even strike a special environmental royalty on an area that might laterally mine underneath one of these areas.

Those moneys could then be utilised for the maintenance of the wilderness area concerned for its protection and preservation. I dare say that the usual amount of thought has been given by the environment department to such opportunities—and that would be, in my experience, zero thought, because its lateral thinking ability does not seem to be any more evident than it has been in the past. It is for that reason that I remain cynical about the government's intent. I remain cynical because the minister has displayed to this house previously that he has not properly considered these issues.

Ms Rankine interjecting:

The Hon. W.A. MATTHEW: I would be interested to hear, if I can talk above the babble from the member for Wright, the minister's response to the house on what work has been done and seek his assurances.

Ms RANKINE: I rise on a point of order, Mr Deputy Speaker. I ask the member for Bright to withdraw that derogatory comment.

The DEPUTY SPEAKER: The comment was not unparliamentary; it might be unwise.

Ms RANKINE: It is not unparliamentary to reflect improperly on a member?

The DEPUTY SPEAKER: I do not think the member referring to barely audible conversation as babble is unparliamentary; it might be unwise. If the member wants to withdraw the remark, it is up to him.

The Hon. W.A. MATTHEW: I had concluded my remarks, but the member for Wright was clearly interjecting. That is out of order, and it is also rude. I will continue to refer to her rude and out of order interjections as babble.

The Hon. J.D. HILL (Minister for Environment and Conservation): I was going to thank the opposition, and I still do, for its support. However, having heard the comments from the member for Bright, I can assume only that it is not a united position the opposition is once again putting in relation to an environmental matter. The opposition is clearly divided over this issue. However, I accept that the shadow minister has made the point that he, on behalf of the opposition, is supporting this proposition, and I thank him for that.

The member for Stuart raised the issue of mining. The arrangements the member for Davenport described determine where mining could and could not occur. As the member for Davenport has said, a process which he began when he was minister involving the Conservation Council, Santos and other mining companies I think at one stage—

The Hon. W.A. Matthew interjecting:

The Hon. J.D. HILL: They did not sign the protocol, the document, but they were involved. It was, as I said, the Conservation Council and then later on the Kidman company (that was to do with grazing rather than mining). General agreement was reached between those parties that mining should be excluded from key areas. That was a general agreement reached by Santos and the Conservation Council, but it was not something on which the government had a say, as the member for Davenport has said. It was done individually by those parties, so why get involved? Of course, once they had reached that agreement, the government had to get involved. The government, through the agencies of primary industries, particularly the mining section in PIRSA, and my department, the department for environment, worked with those groups and drew some lines on a map which best reflected the balance between the commercial mining interests in that area and the biodiversity interests—the areas that needed to be protected from an environment point of view. That was really the subject of the legislation I introduced into the house last year.

This measure is about a section of that overall mining-free zone where grazing had already been excluded some time ago. Since grazing and mining were now excluded, it made a lot of sense to make it a national park, and that is what the government has done. This measure is really about naming an area where there is no mining or grazing a national park. It puts it into the national park category, and I believe that will mean that it will become more of an attraction for visitors to that area and will help the economy of that area through tourism, and so on. This measure is really not about mining; that was determined on another occasion.

The member for Davenport has handed to me a copy of the Kidman letter. I am aware of the letter and, as I said previously, I thank the Kidman company for this letter. I saw the letter only the other day, and I have not had a chance to receive advice in relation to its request, but obviously we are very sympathetic with respect to its needs. We have a good relationship with the Kidman company, and we want to work with it to ensure its continuing cooperation in that region.

Motion carried.

ENVIRONMENT PROTECTION (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 8 February. Page 1423.)

The Hon. G.M. GUNN (Stuart): Last night I expressed my concern about the involvement and activities of sections of the Environment Protection Authority. It is of great concern to me that there are people within that organisation who want to obstruct, hinder, interfere with, curtail, impose their own views and generally be mischievous and act in a manner which is contrary to the best interests of the state and certainly of development.

I will give members another instance. Some of these bright characters went up to the Port Augusta Council and told the council that it had to put a new weighbridge into the rubbish dump at a cost of just under $500 000. Where do they anticipate that the ratepayers of Port Augusta will get $500 000? What is the purpose of this escapade? It may suit the imagination of these people within that organisation who believe that they have the answers regarding every matter that anyone might think about, but at the end of the day the council is a democratically elected body. It should not be subject to interference, hindrance or direction from an appointed body of people. Look at the disgraceful decision on Kangaroo Island where the council was fined; if ever there was an act of stupidity and insensitivity, where a group of

bureaucrats laid themselves open to be placed under ministerial control and under supervision by the parliament, that was it. No matter, Mr Deputy Speaker, what happens here tonight, you and I both know that, when organisations get out of line and fail to understand that other people have rights, feelings and needs—industry and commerce have to be able to get on with things—when they do that, then no matter what happens today or tomorrow, those amendments that we have talked about will be put into place. They might as well understand that those on this side have the spotlight right on them.

We know who some of the agitators are. I think it is appalling that, in relation to the board, the Chief Executive, with all his best will, with all his experience, is placed as the chairperson. He has a job to do and it is quite wrong and unreasonable to place the Chief Executive as the chairperson of the board. It is the role of a board, whether it is a government board or a private board, to question the advice given to it, to challenge the advice, to make people understand their responsibilities, and to intervene and curtail over-enthusiastic people, people with their own agendas, or people who are acting contrary to the best wishes of the people of South Australia.

Look at the hassles that they caused at Whyalla, where they nearly shut down the place; look at the stupidity in that case. We know that senior ministers had to intervene and curtail these people. We know the story. We know that some ministers are still unhappy. It is wrong in principle. If you look at the composition of the board you see that there is not a farmer on it and there is not a miner on it. These people are racing around telling people what they should be doing, and that in itself is wrong. There is the City Manager of Salisbury, who is a public official and is not elected; there is a lady from the SA Wine and Brandy Association; and there is Mr Elliott, who tried to get elected to the lower house but did not succeed. He could not get elected, with all his posturing and wisdom and the advice he gave to people. He was Mr number one obstructionist, and he could not get elected to this place. He has been shunted up there. I wonder what skills of industry and commerce there are. People are involved in producing something to create opportunity and jobs, and I wonder what experience he has had there: none. I do not have any problem with Megan Dyson: she is a sensible person with a bit of experience. There is Allan Holmes. I know Allan and I am sure that he is always pleased to read my comments, but he is another public servant.

Let us look a bit further at this august, esteemed group of people. There is another gentleman who is involved in a consulting capacity; there is another one in environmental policy, strategy and change; and there is someone who has had 30 years' experience in environmental management and engineering. How many of those people have been in the industry that is subject to this scrutiny and have had to live by what they made from that industry to survive, to look after their families and put a roof over their heads, and deal in raising money? None of them.

The amendments that I intend to bring forward are going to test the will of this government as to whether it believes in democracy, in parliamentary control, and whether it believes that people have rights. I refer to one or two of the provisions in this obnoxious piece of legislation. It provides that anything declared by regulation or by an environment protection policy will be waste. Well, they can declare anything; they can declare it when the parliament is not in session and as it operates. It should be declared only when the parliament is in session so that the parliament can question them. When you go through some of these other things, you see that these people do not believe in people's rights. The measure also provides that 'a person is required to state a person's full name, usual place of residence, and produce evidence of the person's identity.' What sort of society are we living in? If a policeman stops a person on the road and the person gives their name, they do not have to produce evidence. Why should that happen under this bill? Who has dreamed up this particular provision? Which bureaucrat? It goes on to say:

> Where the exercise of a power under this section (other than a power exercised with the authority of a warrant) results in any damage. . . if the power was exercised by an authorised officer appointed by a council. . . must make good the damage. . .

What sort of damage are they talking about? Are they talking about actual physical damage, or are they talking about damage caused by the loss of time if they stop the industry? Is that included? There is no proper explanation. I go on. There are one or two other matters that this committee ought to look at, for example clean up orders. New section 125, Notices of defences, provides:

> A person who, in criminal proceedings, intends to rely on the general defence under this Part or any other defence under this Act may only do so if the person gives notice in writing of that intention—

I thought that in our democratic system it was up to the person to determine when they go to court. What right has the EPA or any other appointed official got to tell a person before they go to court that they have got to state their intention? They have got no right to do that, and I would like to see this provision challenged in the High Court, because I know what the High Court would say. It would not agree to this. It would say, 'This is a denial of justice and a denial of your democratic right.' I am surprised that the minister, who, I understand, has some experience in the law, would allow these Sir Humphreys to even have the audacity to put up this provision. It further provides that, 'if the proceedings are for a summary offence and have been commenced by an authorised officer appointed by a council. . . ', they have a certain time. That should be entirely a matter for the court.

We know that, if you are taken to court by the government or its agencies, you are already at a tremendous disadvantage. Let me say one thing clearly: the next time one of my constituents is interfered with, or is caused a problem, I intend to move a motion of censure on those individuals in this parliament, because these people have acted unreasonably, and they have acted unwisely and improperly. If my constituents are any gauge of what has happened, God help what the rest of the people in South Australia are suffering. One unreasonable act always generates another, and these provisions are over the top. There was no consideration for common sense or for people's rights. There is a strata of middle level in the EPA who have the own agendas and their own views. I do not think that the board is properly questioning these people about what they are up to. Therefore, we need a board which is independent, which is made up of people with experience in industry and commerce, which can question and control these people and which can stick up for the people of South Australia.

What will happen when they issue one of these stupid orders and fine a company a huge amount of money and the company refuses to pay? Are you going to put the people in gaol? What if the management of the company says, 'We've had this. There's 500 people working here. We're going to shut the shop up, shut her down.' That is what will happen.

And what would happen? The government would come in and pay the fine. It is like what used to happen in industrial relations, where people would be fined for silly things and suddenly the fine was paid overnight. I wonder who paid? You and I know who paid—because they had to hose the thing down.

Time expired.

The Hon. R.B. SUCH (Fisher): Members would know that I have a longstanding interest in and passion for matters relating to the environment. My interest goes back prior to the creation of the department for the environment, which was a welcome initiative (maybe not welcomed by the member for Stuart, but welcomed by most others, I think). Our record in this state and in Australia in regard to the environment is an appalling one. It is one of the worst in the world, in the context of modern settlement, in terms of clearance, destruction of natural habitat and loss of species.

The Hon. G.M. Gunn: I disagree with that strongly.

The ACTING SPEAKER (Mr Caica): Order!

The Hon. R.B. SUCH: Even in areas where some original vegetation is left, it is often contaminated with weeds; it is often compromised in one way or another. If one looks at South Australia, let alone the rest of Australia, one will see that a lot of species have disappeared. Even now in the Adelaide Hills a lot of the native birds are under threat. Trees that are indigenous to the local area are continually being removed and destroyed. We have to have some development, I acknowledge that; we have to have some clearance for farming.

As I have said on many occasions, I have a lot of relatives who are currently farming one thing or another—they are raising beef or sheep, growing fruit, dairying; all sorts of things—and what I have noticed amongst my relatives is that, in the last 20 or 30 years, they have come to have a great appreciation of the environment, much more than they had many years ago. They often contact me and tell me that they are outraged by what is happening in their local area—for example, people putting in vineyards who are not going about it in the right way, or who have made a commitment to plant native vegetation and have not continued with that commitment.

I think it is unfortunate that the Liberal Party (to which I used to belong) still has not moved into the modern era in terms of recognition of the importance of the environment. There have been some exceptions. I acknowledge the member for Davenport: I believe that when he was minister he was genuinely committed. The former member for Heysen, the Hon. David Wotton, was certainly committed, although he was restricted somewhat by his ministerial colleagues in cabinet. However, I do not believe that, overall, the Liberal Party—the opposition, the alternative government—has really come to terms with the environment. I think members of the opposition are forgetting that at least one generation has come through who have a much greater understanding than was the case years ago—not perfect, but a much greater understanding about the environment and a limited understanding of ecological processes and all that goes with that. If the Liberal Party ever wants to win government, if it wants to win the metropolitan area, it has to change and update its attitudes towards the environment.

We hear a lot of glib phrases such as 'Save the environment'. We will always have an environment. The issue is: what sort of environment? There are all these so-called attempts to protect and save the environment, most of which avoid the tough issues. We have seen that interstate—for example, in Queensland, where even in recent times they have cleared huge areas of native flora, because the farming lobby was very strong and the government was not prepared to protect the natural heritage. That was very unfortunate.

However, throughout Australia we have gradually seen some improvement. However, rather than focusing on some of the core issues—for example, preservation of habitat and retention of biodiversity—some people want to focus on environmental topics such as litter. That is important, but litter is not the key issue with respect to the environment. It might be unsightly, and it does some damage in the ocean and in rivers, but you will get people saying, 'Look, we are doing something about the environment because we are tackling the litter issue.' That is good, but they are not tackling the fundamental issues, because often they are up against powerful economic interests that do not want to be restricted.

The member for Stuart said that environmental protection is about restriction. Well, it is: it has to be. It is about not allowing people to do certain things. We also hear the silly argument that there has to be a compromise. I put it to members: let us have a compromise in relation to the Mona Lisa. Let us split it in half. That is a compromise. It is a nonsense. The compromise is usually at the expense of the environment. We hear all this mumbo jumbo phoney pro-environment talk which, at the end of the day, is meaningless and does not really address the key issues—as I said, the loss of habitat and the loss of biodiversity; all those key factors.

We still see government agencies hooked on attitudes that I depict as an environmental cringe. We see it in the councils, in their lack of understanding in terms of trying to protect and promote local flora and the consequence of that in terms of the impact on creeks, riverine systems, native birds and so on. We still have a long way to go, and we need measures such as this bill. Nothing is perfect in terms of its protection.

I note that in the bill there are changes in the way in which offences are to be dealt with, and that is one of the contentious aspects. It will give the EPA power to continue to control and supervise sites where there are environmental concerns. I would have thought that is fairly logical and sensible, but we need to have in place a body, an organisation, and processes that will protect the environment, and that cannot be achieved in an absolute sense and never will be. In any of these decisions, the loser is always the environment. Once you say, 'Clear a bit of that scrub,' that is a net loss to the environment. The odds are always stacked against protecting the environment. Whilst we can try to minimise the impact on the environment, to reduce the negative impact, we can never protect the environment totally. Anyone who suggests that you can, I think, is kidding themselves. It is a continual battle, with the odds stacked against what the title of this bill suggests: environment protection. It is a question of degree; it is not an absolute. However, that should not deter us from seeking to protect the environment as much as possible.

If we think of our behaviour (and I put myself in the same category), we are pretty clumsy in terms of appreciating the significance of the natural environment and the man-made, person-made environment; whatever you want to call it. We still see people lacking any understanding of the intrinsic worth of flora and fauna in this country and the way in which there are interrelationships between the various dimensions of that. We have a long way to go.

The creation of the department of the environment back in, I think, 1971 or 1972 was a great step forward. But I think

there is a danger that a lot of people think that the environment has been saved. It is a bit like the term 'Save the Murray'. It is not a Billy Graham crusade: it does not fit the notion of a piggy bank or some religious conversion. You are trying to protect as much as possible. You cannot actually save it in any total sense, and there is a danger for people who think the environment is saved simply because we have an EPA or department of the environment or a minister for environment and heritage. All those things have the potential to do good in relation to the environment but, in themselves, do not constitute the salvation of the environment.

One would hope that, with the extension of powers of the EPA and the refinement of processes, people do not think that somehow they can sit back in their armchair, all is well and there is never going to be any onslaught, either on a small scale or on a large scale, against the environment. There always will be, because there are people out there who want to make a dollar at the expense of the environment; who at the end of the day do not really care a damn whether a species dies out. They do not care that something that may have developed, depending on your beliefs, through creation or evolution, something that they cannot do themselves; they do not care whether it dies out and that is it.

As with the toolache wallaby of years ago, they could not care less. We have seen that in terms of a small element associated with the wine industry. They do not care a hoot about saving red gums or blue gums.

Mr Venning: That's a bit harsh.

The Hon. R.B. SUCH: No, there is a significant element, and I can give the honourable member some examples of people at Finniss and places like that where they could not give a rat's toss about saving the native vegetation. I know people who were involved in contracting who were almost at the point of tears because they had to bulldoze down trees that were housing owls and other species, simply because some investment banker wanted to get some extra money so they could live more comfortably and luxuriously. Some of these people do not give a toss about the environment and they cannot pretend that they do.

I was contacted this week by someone seeking to put in huge dams around the lakes area, and the environment does not really rate in terms of a great concern. Most decent vignerons care about the environment. The Henschke family, I would say, of Keyneton, is one of the great families.

Members interjecting:

The Hon. R.B. SUCH: The member for Schubert should not misunderstand me: I am talking about a minority who are not usually the traditional vignerons but who are get-rich-quick people. I know of one development on the Fleurieu where the people, who are not traditional vignerons, are just doing it either as a tax dodge or as a way of making a quick buck. Where they are supposed to have planted native trees they have not, they have just put olives around. They could not care less. But getting back to the main point, as I said at the start I think the Liberal Party members need to be very careful, because the perception is still in the community that they are anti-environment.

If they ever want to win an election in the metropolitan area, they have to rethink that approach. I give credit to the member for Davenport. Some people said he was being cynical: I do not believe so. They said he did it because his electorate would want him to do it. If that is the case, he is acting on behalf of his electorate anyway. Public servants said to me on the train, 'We give full marks to the member for Davenport because he was showing commitment to the environment and he did some good things.' I am just saying to the Liberal Party—they are big people—but if they want to win an election, they cannot keep opposing everything that relates to the environment. It is a bit like Business SA coming out and opposing everything to do with what was called the Fair Work Bill.

That is not a smart move, because you cannot keep opposing things without agreeing with some things and trying to improve the things you do not agree with. That is the way to go. It seems, and we had this in terms of the NRM legislation, that there is not just a strong perception, but people say to me, 'We expect the Liberal Party is going to oppose anything to do with environmental protection', and that is very unfortunate. Liberal Party members will go to the election with that albatross, which is also somewhat endangered, hanging around their neck.

To conclude, I think this bill is positive. Time will tell whether it delivers the goods. I heard what the member for Stuart said in terms of the composition of the board. I do not know all those people individually although I know some of them. I think it is wise to have people on the board who have a business or farming background. There have been a lot of people in the rural and business community who are very pro-environment. Business people have said to me, 'At the end of the day our kids are going to inherit what's left. We don't want them to be living in some substandard situation', which is obviously an urban environment.

So, the assumption that if you are in business or a farmer you are anti-environment is just no longer relevant, and some people within the Liberal Party have come to that realisation. I support this bill in general terms and look forward to it being considered in committee, but I do not see anything in here that is outrageous or excessive. I think the sad thing is that it is probably 50 years too late.

Mr VENNING (Schubert): My name has been 'mentioned in dispatches' because I was chairman of the ERD Committee, which made a report on this matter. I was very pleased with that report. The committee began its inquiry in October 1999 under the previous government, with the support of the government. It received over 70 submissions, and 83 witnesses appeared to give evidence. The inquiry arose as a result of community and local government concerns regarding the effectiveness of the Environment Protection Authority and the Environment Protection Agency. Submissions were received from a diverse group including councils, industry, environment groups and individuals.

The diversity enabled the committee to gain a broad understanding of environmental matters of current interest. The committee included the Hon. Michael Elliott, who is now on the EPA, and also the Hon. John Dawkins, the Hon. Steph Key, the Hon. Karlene Maywald and the Hon. Terry Roberts. As you see, we had a pretty heavy duty committee there. You would say it was a committee who had, I will not say a green bent, but certainly an environmental bent, and we got on pretty well. I thought we came up with a pretty good report. We came up with 40 recommendations, and I suggest that members get a hold of the report.

Some people have blamed the committee for going too far with these things. I know that the previous (Liberal) government took many of the recommendations and acted upon them. This government is now coming along and picking up some more and adding to them. We attended the Environmental Round Table in 1999 after the report was tabled, and the report received accolades from many sectors. One of the

core areas was the way the EPA could carry out its role in the community, because we were having trouble, as has been said in this debate, with community problems. The EPA was having difficulty managing, particularly, noise from air-conditioners, fans, frost fans, bird scarers, you name it.

There were problems with odours, problems with smoke; lots of problems that the EPA was getting called out to. This is when local government first came to the fore. We got involved with the LGA and had three councils trialling their own EPA officers, and they were funded from the EPA. Recommendation No. 26 states:

The committee recommends that the EPA Agency provide funding to local government to enable them to take on additional environmental responsibilities.

How amazed am I? I commend the member for Davenport for his speech. These are vital matters involving local government. We are debating this bill and the local government has not put out its position. I find that staggering, absolutely staggering. We will lock these people into the legislation, well and truly, at high cost and they still have not discussed it. I am sick of hearing from the LGA. I will be critical of them. I am sick of hearing from them. They complain about having to raise their rates because they are given all these extra duties and there is no money to go with it. Here we have a prime example. They will score all this extra work with no guaranteed funding, generating funds themselves by levies and fines, so do not come in here with a handkerchief; do not expect me to cry big tears. I will just be hitting you for rating the people mercilessly.

That is what is happening. People have had enough of high rates, land tax and the high cost of having a house. This is one of the reasons. Here was an opportunity for the LGA to say, 'Hey, we will take this on but we want guaranteed funding for this, otherwise you keep it.' It is a very expensive thing. The complaints come in from people at all hours of the night and the council inspector goes around and listens to the noise, particularly today where we seem to be active in this area because people are very litigious about having a go about anything, because they know they can complain and they do.

I was very concerned and this is why I have had a change of heart. Back then I had a green tinge about me and I was trying to do the right thing with the EPA, but it really gets up my nose when this government has selectively taken some of these recommendations and ignored others for their own political reasons. I will read recommendation No. 30, because this is a controversial one:

The committee recommends that the EPA be more prepared to insist on compliance with the EPA Act and to prosecute offenders.

That was tough stuff when we wrote it. I trusted the EPA. I thought the officers had seen the light and they would do the right thing—and I am happy to leave that there. Also, I go back to the other difficult one, recommendation No. 9, which states:

The committee recommends the introduction of civil penalties into the EPA Act.

Well, there is the crunch line of this legislation. I wondered how that got there. I went back to the evidence of the committee. I often wondered why I did it and when one reads the report one can see why. It is all about the costs of court challenges (page 9 of the report). It states:

People can take environmental legal cases to the Environment, Resources and Development Court. However, the cost of taking a case to this court can be very high. Mr Beresford (Brownhill Creek Association) said: 'As regards the rights under the act for the community to use civil enforcement of the act provisions, there is in theory a right for groups such as our residents association to go to the courts and seek enforcement of this Environment Protection Authority licence for the highways department works. The reality is that that is just too expensive. . . This is beyond the financial capacity of most people. . . there has to be some way in which some litigation can be funded.' (Evidence, p194)

Also, a private citizen, Mr R. Olson went onto say a similar thing. We laid out these things and we did it with every good reason. People say that I was green in those days. Why the change of heart? Why do I not now support this recommendation?

Sir, I will tell you why I have changed. This is all very personal and I have permission to deliver some of this information to the parliament. Much has happened since May 2000 when the report was released. The management of the EPA has changed and so has its attitude. Even though I do not always agree with everything Mr Gunn says, I can understand and fear for some of the concerns he raises here. Back then the attitude of cooperation and assistance was there. It seems to have evaporated. I did not see that it had, but I know now with my own eyes that things have changed. We have now got a bureaucratic confrontation going on; 'The law is there and you will do it, otherwise you face the full letter of the law.'

I will refer to something which happened in my electorate and which involved a constituent. She was a lovely lady with a very strong land care ethic. She was a very prominent member of the local Landcare group. The group was very supportive of her at all times. Her name is Ms Christine Wilsch. She won an award from the Northern Adelaide and Barossa Catchment Water Management Board for all that she had done in taking a very denigrated area in the Barossa, which we call the Duckponds Creek area and which had been the public dump of the community for years, and beautifying that area; and it is fantastic. She is a prominent member of the local Landcare group.

Well, out of the blue I got a phone call from a member of the local Lower North Soil Conservation Board, Mr Jim Mitchell—who always gives me good advice. He was most concerned Ms Wilsch had been summonsed to court over polluting a water course. When that did not work, she was charged with illegal dumping. I rang Christine and I was confronted by a most upset and concerned lady. Ms Wilsch was rehabilitating a waste area, a large eroded washaway, full of weeds and rubbish. It was most unsightly. She got rid of all the weeds; she carted away truck loads of rubbish; and she got a local contractor to fill the washaway, which was continually eroding back in gully erosion from the centre area, with crushed cement from a building site—clean, hard fill, we would call it.

Someone reported it, and I believe that someone was not concerned about the degradation of the land site but, rather, that the contractor had got cheap dumping. They dobbed her in and an officer came out to the property. No-one knew this but the officer came out. I will use only the Christian name of this lady, but I hope she has learnt from this lesson. I will call her Carol. She took photographs without consent or contact with my constituent. I believe that was most rude. I believe my constituent was entitled to at least a phone call for an appointment or, if not, at least a knock on the door. A few questions asked might have solved all this. There was a confrontational attitude to a lady who was well known to everyone to be an ambassador and good example to everyone in land care.

What happened next is that it went totally out of control. The whole community got behind this lady—the soil board, the Landcare group and all the farmers' bodies. We had a row on our hands, well and truly. I then rang my contact in the EPA, Max Harvey. I had a discussion with him, not unlike the member for Stuart, as he has said tonight. I told him the situation was totally out of hand; that Carol should never have done what she had done. I then rang Carol and she was rude to me, too. This young female officer told me that, first, I had no right to be involved; secondly, to butt out; and, thirdly, that I had it all wrong. I said, 'Hang on! Lady, one thing about this is that I am an MP and I can count and I know where the support is on this one.' This lady had the credentials to have a genuine beef. The same officer told Mr Jim Mitchell not to go to court; that he should not get involved with the court. She told him to keep out of it, too. Well, that was red rag to a bull. That encouraged Mr Mitchell to further—

The Hon. G.M. Gunn: This officer should be sacked. Who was she?

Mr VENNING: Her name is Carol, but I won't put her surname on the record.

The Hon. G.M. Gunn: She deserves it.

Mr VENNING: She certainly does. I was most concerned about this, but everyone involved in land care and soil care in the whole area was offside with the EPA. When the member for Stuart talks like he does, well, this situation should never have happened. We should not have young people with no experience of working with people. What is wrong with a phone call or a knock on the door? People should be treated civilly first. If it does not work, okay, then you can get a bit tough, but at least have the manners to treat people like people. So, here am I, a slightly green MP who is very much going grey—in more ways than one. Eventually, we came to an amicable agreement, and we took some of the cement out of the creek and filled it, and it is now a beautiful area, as it was intended to be.

I also note the comments made by the member for Fisher earlier tonight, and I note that you are sitting in the chair, Mr Deputy Speaker. You had a shot at the vignerons who pull out trees 'willy-nilly'. I take exception to that, because I say that most—that is, 97 per cent of the vignerons I know—are very constructive about trees, and I will name one in particular: Grant Burge. Remember the fracas when he wanted to pull out a scrawny old dying gum tree! It had gummosis, and he wanted to pull it out because, more than anything, it was unsightly, and he had already planted hundreds of others around the perimeter of the property, which, by that time were half mature trees. The media went up there about the tree, and this nonsense went on.

I believe that we have to have commonsense in these areas. Most of these people plant 100 trees for every one they pull out, and they plant trees that are more appropriate to the area—namely, natives—not some introduced tree that is half dead and that the birds have attacked and killed. I took some exception to your remarks, sir, and I will not let them stand. Those trees are a jolly nuisance, particularly if they are not native to the area, as they attract the birds to the vineyards and cause all sorts of problems. I am sure that the Burge family would invite you down and show you that tree and then show you around the perimeter of the property, which is just beautiful. You cannot plant vines right into every corner of a square block, so all the corners have trees in them, where viticulture cannot be carried out. Just take a drive down to the area between Lyndoch and Williamstown, because it is the most pristine and loveliest piece of Australia. Mr Burge took a public hammering on every TV station because he wanted to remove this old, dying tree. It was absolutely disgraceful, and I let my feelings be known about that, but I try to keep a level head.

However, I understand that we do have people who do not do the right thing and illegally whack over trees. But I have to say this: I know a lot of people (and some are pretty close to home) who do things and are not prepared to report them because, if they did, the answer would be 'No'. So, they are restoring watercourses, and all sorts of things like that, and, if there are a few native trees, the bulldozer goes 'whoosh', away go the trees, the watercourses are fixed up and the trees are plonked back. If they asked permission to do that, they would not get it, and those who do are refused and are then in double trouble. We know that ignorance before the law is not okay, but there is no latitude for responsible people to carry out reasonable land care—namely, filling in gullies, getting rid of noxious trees and trimming roadsides so that we can have reasonable fire breaks during bad fire seasons, but that is another story and we do not have time to go into that.

The honourable member for Stuart and I went to the West Coast and saw the bushfire damage. A lot of the problem was the inability to burn breaks against the roads because of the mass of native vegetation on the roadside. Years ago the farmers would have kept it low and controlled, but now, under the new rules, they are not allowed to touch it, so all this matter is there and cannot be burnt against. The road is a natural boundary to burn a break, and then there is six metres of native bush, but you cannot light against it because it jumps across the road. The way they stopped the fire was by burning 300-metre wide breaks against roads where they could. That is the only way they could stop it, and they could not do anything else to fight the fire. So, where there is a large road, you have to allow people to control the native vegetation because, if you do not, you will burn the whole country, including that native vegetation, bearing in mind, of course, that native vegetation likes to burn occasionally.

This is a very important bill, and I do not oppose all of it. I would be quite happy to say to the minister in most instances that we will try it, give it a go and see, particularly in relation to the recommendations about civil penalties. If it does not work, we will soon pull back and, when you are not in government, we will fix it quickly. If it is in the wrong hands and is treated badly, as it was in my electorate, we will certainly create a rod for our own backs. However, in the right hands, and if you put the right people in the right positions, minister—and we need more Vince Monterolas around this place, people who are humble, with wisdom and ability—I think we could go a long way. I would certainly like to see this bill amended, (although I have concern about the civil penalties), but obviously it will succeed. The recommendations are all there and, when I go through all 40, probably 20 have been picked up, but what about the other 20? I certainly will wait and see what happens to this bill with great interest.

Ms CHAPMAN (Bragg): In the dying days of the Arnold government in 1993, what was asserted to be landmark legislation was the introduction of the Environment Protection Bill, a bill largely supported in this parliament. It was to bring together the operation of legislation which had been pioneering in its day, in the preceding 20-odd years from 1972, covering areas such as the Beverage Container Act, the Clean Air Act, the Environmental Protection Council 1972,

the Marine Environment Protection Act, the Noise Control Act and the Waste Management Act, and to amend the Water Resources Act. It was significant legislation in that I think it certainly captured the mood of Australians, and South Australia was somewhat pioneering in these areas and, in particular, respect for the environment, particularly the natural environment.

What was interesting at the time of the introduction of this bill by the Hon. Kym Mayes, who was the minister with the conduct of this measure, was that he made the following statement:

> The bill sets out to promote and stimulate sustainable development and environmentally sound practices on the part of the vital wealth-generating sectors of the state, public authorities and the community as a whole. The bill will foster a partnership between government and all sectors of the community necessary to achieve effective environmental protection and improvement. At the same time it sets out to the essential backdrop of rules, policies and remedies to apply when environmental performance does not match agreed community expectations.

Further on, he indicated:

> In South Australia, just as nationally and globally, we recognise the importance of economic development and employment proceeding hand-in-hand with measures to protect the quality of life of the community and future generations.

Interestingly, he advised the house, as a number of speakers had, of the support in principle of the bill by the then SA Chamber of Commerce and Industry and, in particular, some correspondence submitted by the then general manager, Mr Lindsay Thompson. There were other representatives from industry who made submissions. I will briefly summarise that, notwithstanding that they had some reservations as to some aspects, including some of the very issues about which we are talking today in relation to lack of consultation, composition of the board, powers and definitions, they supported the thrust of the legislation in principle. I wonder today, if Mr Thompson and others who put presentations listened to the debate when we review this legislation some 14½ years later, whether the rather inspirational statements of the minister and, indeed, even their own agreement with the proposals, would have their support.

I wonder if they had listened to the comprehensive contribution made by our lead speaker the member for Davenport or the more colourful contributions by other members on this side of the house and, in particular, the litany of examples of what clearly were seen as an abuse of process and apparently autocratic application of the powers and authority under this act over the last fourteen and a half years. The lead speaker for the opposition, the Hon. David Wotton, who had significant and longstanding credentials in relation to environmental matters, again, had led the opposition's support in principle. He had highlighted the fact that there had been a policy of the Liberal Party to support a consolidation of the legislation that had built up over the preceding 21 years to try and match that with more expansive development and planning legislation so that it would provide a structure not only for the protection and enhancement of the environment, which is the oft-quoted objective of this legislation, but also to provide a framework that would be easier for those in business to operate under, and that the rules would be clearer and there would be safeguards all round.

He highlighted that there had been a significant inquiry during 1991. I also note that, at the time of the debate in 1993, an environment report was published on this matter in South Australia. That reported highlighted, as was reported in *The Advertiser* at that time, the near desert conditions that South Australia would find itself in if it were not to attend to the urgent remedying of some of the environmental hazards that were in place at the time. So, that was the environment in which this was presented.

I think it is fair to say that, because of the consultation issue also being a matter of concern raised in this house during the course of these debates, it is noted there that whilst there had been a proposal on the floor subsequent to the 1991 report, and there had been some two years of general public consultation, there was clearly significant outrage as there is now from a number of stakeholders who had complained of the two weeks of consultation that they had for comment once the final bill, after very significant amendments, had been introduced to the house. I note with some concern that that seems to be a feature of this debate and, in particular, the concerns raised at the lack of opportunity to receive a clear indication from the Local Government Association and, indeed, our own councils within our electorates to be able to properly brief ourselves in relation to the detail of this legislation which has some substantial reform.

I noted with some interest the contribution made by the then member for the Murray Mallee who did not seem to be quite as forthcoming or flowing with enthusiasm for this legislation at the time when he stated:

> Whilst members on both sides of the chamber may feel well justified in waxing eloquent about this matter, they would be no less justified in doing so to motherhood, and the difference is very minimal. This legislation is all things to all people, as motherhood is. In fact, the powers of that the bill confers on the minister and the authority that it establishes are enormous, and if a government chose to abuse them they could be used to pursue any citizen or corporation very quickly and simply to the point of bankruptcy and insolvency. Whilst all of us will welcome the legislation as a matter of principle, I hope a few of us understand the enormous power we are providing to the authority and to the minister and trust that it will be used judiciously.
>
> In my judgment there are no adequate provisions within the legislation to call to account through this parliament the minister or the authority for any decisions made, since the difficulty in obtaining information about the authority's activities is greater than is otherwise the case with other similar forms of legislation that we have on the statute book.
>
> I note that, for instance, the charges, fees and levies collected will be used in a way which is not defined in law other than to give the minister the discretion to determine whether or not he will accept the advice of the authority. It might be claimed that they are hypothecated, but in fact they are not. There is really nothing under the sun to which the money could not be applied, even to the point, for instance, of financing a group of people who were demonstrating about some matter or other of concern to them as part of their annual activities, possibly somewhere outside of the state even.

So, perhaps he was highlighting in advance some of the rather unfortunate tales and examples that we have heard in the debate on this bill. Whilst other aspects are raised in this debate disputing issues in relation to definition and the like and the composition of the board, he makes another contribution which states:

> Another point that I wish to make is that this bill as it stands has no provision for monitoring after an environmental impact statement has been determined and accepted. There are no requirements to test the predictions that arise from what was an accepted EIS, nor is there in the Development Act. I should have thought that would have come into this legislation, and I am sorry that it is missing. It is all very well to get consensus amongst experts on the outcomes they expect after examining all the information that they have before them as to the impact that an activity of some kind or other will have on the environment, but then we leave it cold. We provide no mechanism for continued monitoring after the event. We approve the EIS and that seems to be it. Why do we not have a commitment to continued monitoring of the outcomes to check the veracity of the information provided in the EIS, not to glorify or vilify those who prepared the EIS but to give us better public information and scientific insight as

to how things progress and develop after approval has been given for something to go ahead? I would have hoped that something of that order would be included in a measure that sets out to protect the environment.

How true that came to pass! The member for Hayward, who is now the member for Unley and has taken the minister's seat since that time, in fact, a few months after this debate, makes a contribution which I think is also insightful as to the difference between the intent and the application of what has transpired in relation to this legislation. It also highlights that you can have all the legislation effectively for structure and performance but, unless you actually do things, they do not happen. In part of his contribution he stated:

I have never been one to agree with the nanny state mentality that this minister and his government seem to feel is absolutely essential for our wellbeing. We can go on from the swathes of green and we can talk about stormwater because the government, again, has been very keen on the concept of doing something with our stormwater. However, I notice that in this report the only action that has actually been taken, and there are lots of words from the previous minister, has actually come from the two councils in the area. I would like to draw the house's attention to the fact that the Unley Council wanted to do some work returning the stormwater for its new shopping centre to the aquifer. The council approached the previous minister to see whether it could get some sort of grant so that a fairly large urban area from which there is a significant run off, all of which flows into the Patawalonga could be channelled into the aquifer but the government's answer was 'No; there is nothing we can do to help.' There is a case of a council that legitimately wants to do the right thing, that legitimately wants to do what this government is saying is a good thing to do for the environment, but when it goes to the very people who are espousing there is nothing but rhetoric and there is no help. As a result, that stormwater is now discharged into the Patawalonga and we pick up the report that says—

In fact, the member is referring to the environment report that I referred to that had been published on that day. It contniues:

What is its number one priority for stormwater cleanup? It is the Patawalonga. It had a chance to do something but it would rather say in the report that it is something to do in the future and do nothing about it at present.

I think they are quite insightful words in the contributions that I have referred to in those debates, because we face the same problems in this debate. We face a situation where there have been concerns raised about consultation.

We also face a situation where there is significant dispute in relation to the board's power and the expansion proposed by the authority, as well as the introduction of a number of reforms. Most of these issues have been traversed by the other speakers. However, I wish to refer to two aspects about which I am greatly concerned. One is the civil penalties that are proposed to be introduced, consistent with the Labor Party's election commitment. Essentially, it seems that, if people considered to be breaching the EPA conditions and the legislation cannot be caught with the usual rules, they will change the rules so that those people can be captured. The changing of the standard required under our burden of proof from a beyond reasonable doubt hurdle to a balance of probability may well be relevant if one is referring to a question of damages. However, it is totally unacceptable to look at a change in this regard and then try to dress up the presentation of fines that can be up to the same maximum that apply to a criminal offence and penalties and can be taken into account as prior conduct in a subsequent action and, effectively, try to present this as an alternate option. I find this totally unacceptable. I hope the house considers this proposal very carefully and rejects it to ensure that we do not create this ridiculous situation.

It is particularly important, because the ERD Court, as it is commonly known, is the avenue of redress for those who are seeking to appeal against the process and requirements set out in this legislation. I will not go into the issue of the performance of the ERD Court; other speakers have done so, as they have in relation to the operation of the authority and its officers. However, I will say that one of the important safeguards in the legal appeal process to a court, which is offered, and quite rightly so, as a means to protect both individuals and corporations in overzealous prosecutions, is that we have a cost provision.

Will the minister advise whether he has considered, or will consider, any variation to the cost provisions under the act as it currently stands? Essentially, there are provisions throughout the legislation, in particular, sections 104, 108, 120A, 133, 135 and 136, which all make provision for technical costs, fees for legal representation and the like, and damages, which are all to be met by the alleged offender in favour of either the authority or a third party intervener who may bring an application as a third party. However, there seems to be no provision for costs to follow a successful defence of an application by a litigant. I may have missed it; I do not purport to be overly familiar with this legislation. I am familiar with applications to this court in relation to other proceedings, where costs do not follow the cause. There may be aspects in relation to its area of work in this regard that I have missed.

It seems to me totally unacceptable that we do not make some provision to enable people to properly defend themselves and to recover their costs if unfair action has been taken against them, where the authority or the third party with the authority has been unsuccessful. That is an aspect I would like the minister to address, as well as identify in the current legislation or, indeed, in the amending bill before us, whether the government proposes to genuinely give some protection to parties who are in this position and who are the recipients of unfair, unjust, frivolous or vexatious action on the part of others. I would like that matter covered.

In conclusion, the proposal to transfer the area of compliance to local government on a voluntary basis in itself would not cause me any particular concern if two things were put in place. First, if there was an appropriate mechanism by which councils which undertake this responsibility could recover funds and, in particular, to have direct funding to do that. To ask a council to undertake this responsibility and not provide the funds is also unacceptable.

Time expired.

The Hon. J.D. HILL (Minister for Environment and Conservation): I thank all members who have contributed to both this evening's and yesterday evening's debate. I particularly thank those members who supported the government's proposition and those on the other side who supported some elements of it. A number of issues were raised, and I will go through them in some detail. However, I want to make some general observations before I get into the detail.

When I first became shadow minister for the environment (about seven years ago), I went through the process of trying to understand this portfolio. I confess that I knew little about the environment portfolio, other than what a normal, reasonably well-educated person in the community would know. I did not have any strong views about the environment, the EPA or any of these agencies. I guess I spent a lot of the first four years, as a responsible person, talking to people in the community and the interests groups, and going around and

just getting a feel for it. One thing that people were saying, both in the media, directly and all over the place, was that the EPA was a toothless tiger. The intention behind the legislation, which had been introduced pretty well with bipartisan support, was supported. However, the actuality was that it just was not able to do the job. The reality was that it had had only one or two prosecutions. I think that by the time the member for Davenport became minister it had not had a single prosecution. It may have had one in the previous five or six years, and that is not a reflection on the minister: it is just the reality of it.

I became aware that one of the biggest priorities for us going into government was to strengthen the EPA. I developed policy and put it out at the election. I made a number of statements about what we would do to strengthen the EPA, such as giving it independent authority; and taking the resources which were embedded within the department for environment away from that department and giving them directly to the authority. We went through some of that process a couple of years ago when we went through the first round of amending the legislation. I said at the time that there were further amendments to come, and the second round of amendments is what we now have.

The intention is to give the EPA some teeth: it is not to make it an all powerful body which will cause mayhem in our community. In fact, even though we have given it teeth, we still get criticism from community groups which are dissatisfied that it has not acted quickly enough or done enough to deal with a particular pollution issue they are facing in their community. The member for Giles would know about a number of aggrieved citizens from her community who have issues about red dust pollution in her town. I get emails on a daily basis from members of that community—

The Hon. I.F. Evans: I keep sending them to you.

The Hon. J.D. HILL: Not from the member for Davenport, but from members of that local community arguing that we need to be tougher and take more action. I get emails, letters and telephone calls from other communities which are concerned about particular issues. So, there is a real dilemma for the EPA. If it goes in hard and satisfies the interests of those who want to see pollution problems fixed, then industry complains and says that it is too hard and too tough. If it is too soft in the way that it approaches it, the community complains. It is caught between a rock and a hard place. That is the nature, I guess, of the business.

What we want to do as a government and, I think, what the broader community wants to do, is to make sure that the EPA has a sufficient range of tools at its disposal so that it can get proper outcomes, which are in the interest of the environment without unduly affecting the rights of industry to go about its business, because we need industry in this state, we need to make money, and we need to have an economy that works if we are going to do all the things that we want to do. That is generally understood and that is embedded within the objects of the principal EP legislation.

One of the issues for officers who work within the EPA is the pressure on them to balance these things—and I am not talking about the CE, I am talking about individual officers who are confronted on a daily basis with the pressures to balance the demands of the community for more action, and the counter demands of industry for less action. It must be very stressful. So, they in their individual lives have to deal with these pressures and I think at times it must be very hard work.

So, it grieves me deeply to read and to hear some of the comments made by some of the members on the other side of the house, making very direct personal attacks on the staff of the EPA, lambasting them, criticising them, saying that they are inept, incompetent and draconian in the way in which they carry out their operation. I think this is absolutely unfair and wrong, and it is an abuse of public servants.

The role of the EPA officer in many ways is similar to that of a police officer yet, in our community, a police officer dons a badge and a uniform and is treated with respect. Everybody knows that they have a hard job. They go into a difficult situation where there is a crowd out of control and they get abused, they get spat on, and a whole range of things, and they try and establish law and order. Sometimes they do not get it perfectly right because of the intensity of the situation, but by and large the community understands the difficulty of their role and holds them in high regard. They are treated with a great deal of respect in our community.

In my view, EPA officers should be treated in a similar way because they have a similar role. They have to balance the needs of a range of community positions and try to do their job. So, it grieves me, and I think that it is an appalling abuse of this place for public servants to be attacked in the rather cowardly way that they have in this chamber. The opposition's contribution to this debate at the very best was mixed. It consisted of speaker after speaker attacking public servants and, on a couple of occasions, naming individual public servants. It consisted of shock and mock outrage at particular incidents that have been highlighted in a way which is unbalanced and, I believe, unfair.

I think that we have an opposition which has shown in the character of its contributions to be very weak on environmental protection. Opposition members say that they want to protect the environment but when it comes down to it—to putting measures into the legislation which actually provide the tools for the EPA or to other organisations—they always want to hold back and take the soft option.

I now address particular issues about the EPA. I acknowledge that in any organisation, whether it is the EPA, the police force, the department for environment, the department for health—any public service organisation which employs many hundreds or thousands of people with many interactions with the public on a day-to-day basis—there will be occasions when things do not go right, when things are done in a way in which they ought not to be done, and when people make mistakes. That is just the nature of humanity. If we applied the same standards that we apply to the EPA officers to ourselves then I think we would be very critical of ourselves, because each of us in here makes mistakes in our day-to-day activity.

So, what I would say to members of the house, and it is really a message that the member for Davenport made, is that the head of the EPA, Dr Paul Vogel, is absolutely prepared to talk to members of parliament about their concerns and their issues, and he would happily listen to any of the individual concerns that you have, as am I. So, let us stop the public service bashing, and let us look at the issues.

Before I do that, though, I want to refer to a couple of the comments made by a couple of the members on the other side and make a political observation. We are a year or so away from an election and, obviously, people in this place like to use this as a platform for their own particular electorate interests and needs. Let us look at some of the seats that will be marginal, or near marginal, or could be marginal, at the coming election, and I make this from an environmental point

of view. Let us look at the combined Democrat and Green vote in a number of Liberal seats in 2002, at the last election: Bright, for example, had 12.9 per cent; Davenport, 16.9 per cent; Hartley, 10.8 per cent; Heysen, 25.1 per cent—

Ms CHAPMAN: I rise on a point of order, sir, of relevance to the debate. Clearly the minister is delving into aspects which are not relevant to the debate and I am anticipating that he is proposing to reflect on those who have spoken in the debate.

The DEPUTY SPEAKER: Order! The member has made the point of relevance. It is a bit of a grey area. The minister should not dwell too long on extraneous matters.

The Hon. J.D. HILL: What I am attempting to do—

Ms CHAPMAN: I have a second point of order. The minister, by raising the seats and reference in this manner, is reflecting on the members who have made a contribution in this debate, and that is not acceptable under the standing orders.

The DEPUTY SPEAKER: I do not believe that he is reflecting on them; he is responding. I do not think that he is in any way denigrating their comment. Otherwise members would not be able to say much in this place.

The Hon. J.D. HILL: The sensitivities of the member for Bragg are noted. Let me quote what a couple of members said during the debate. The member for Heysen—I found her contribution quite extraordinary—said, 'I have nothing but contempt for the EPA and, until it changes, I will never support any measures that aim to broaden its powers.' I ask of her: she represents a community, and what will her community, where 25.1 per cent vote Democrat or Green, think of that statement when it is put on pamphlets and distributed in her letterboxes? What will the people of Hartley and other electorates, Unley and so on, where there is a strong interest in environmental protection, think of the statement made by the member for Stuart when he said of the EPA, 'We are going to go after this group.' What will they think of it? A senior Liberal says, 'EPA policy: we are going to go after this group.'

I think that it is an indictment of members on the other side. They pretend to be interested in the environment but when you scratch the surface you find a group that is anti-environment, soft on the environment, and they do not control their backbenchers with their outrageous comments attacking the EPA, attacking individual officers and promoting views which are absolutely antediluvian.

I will now go through some of the substance of the contributions made by those on the other side. Under the State Strategic Plan, the EPA vision is for a 'clean, healthy and valued environment that supports the social and economic prosperity for all South Australians'. This is a vision strongly supported and promoted through the mandate given to the EPA under the objects of the act. It is acknowledged that all the decisions of the EPA, as I said before, may not be perfect. However, it should be understood that the EPA makes numerous decisions each day. It should be acknowledged that most of the decisions made are considered reasonable. As a learning organisation, the EPA is constantly striving to address any concerns regarding its decision-making processes over the last few years through a broad consultation program with key stakeholders, and by looking closely at its internal decision-making processes.

These forums include the EPA's annual round table conference, regional board meetings, meetings with various interest groups and executive level meetings. The delegations for decision making within the EPA are at management level. Officers on the ground do not have the specific delegations to issue environmental protection orders, for example. The EPA is in the process of finalising its review of its compliance and enforcement guidelines that guides the process of decision making by officers of the EPA. This will be accompanied by training sessions on applications of the guidelines, including presentations by the Chief Executive on sustainable considerations.

Based on a hierarchy of levels of response, under the guideline an initial response may be to commence discussions and negotiations with a facility regarding the EPA's concerns via simple correspondence with an escalating response, depending on the nature of the offence and the response of the facility. This has been the accepted practice of the EPA for some time. A small percentage of the issues it deals with ends with an EPO being issued, or more serious action via prosecution.

The EPA has a number of other internal programs in place to improve its processes, such as providing the required advice on development assessment applications. Last financial year, for example, the EPA provided 567 responses to referred development applications. Over 81 per cent of these responses were within the statutory time frames. Whilst acknowledged as having one of the best response rates within government, the EPA is constantly striving to improve its responsiveness and has a formal process in place to achieve this, while not compromising the quality of its advice.

Further, last financial year the EPA received 4 895 complaints from the public. It managed a total of 1 986 authorisations and it conducted 1 021 inspections of licensed premises alone. This reflects the scale and number of decisions made by the organisation and interactions with both complainants and activities subject to dispute. Some of these interactions—a very small percentage—may result in outcomes that, on review, may be altered, but these are few and far between due to the strong focus by the EPA on quality systems and processes in decision making. This effort to continually improve is very much a priority for the EPA and its board. In the work that it undertakes it should be acknowledged that the EPA uses a range of education and other non-regulatory programs to manage impacts on the environment. These programs acknowledge that a combination of regulation and education will result in better environmental outcomes at least cost to the community.

I will just go through some of the issues raised by particular members. The member for Davenport said that the government's position was 'Fine it, levy it, tax it and licence it'. Approximately 10 per cent of the EPA's operations workload is concerned with non-licensed commercial premises. However, the EPA has a number of other programs dealing with incentive-based environmental improvements with small to medium organisations as well as for the domestic sector. Recent instances have shown the EPA working with industries and local councils to upgrade sites where environmental impacts are demonstrated by the planning process rather than the EPA's licensing system. Examples include food distribution companies on noise impacts, unlicensed foundries and furniture factories and wineries.

In relation to disputes arising on residential premises, the EPA recommends that, in the first instance, mediation is entered into between the disputing parties if an agreement cannot be reached via face-to-face discussions of the issue. Common instances of these types of disputes include airconditioner noise, pool pump noise and so on. It is

estimated that the EPA receives four or five of these types of complaints a day. The EPA can assist in resolving a dispute if mediation has been attempted and has been unsuccessful. It should be recognised that timely handling of these neighbourly disputes requires involvement at the local level. To this extent, the EPA offers its assistance as needed to local governments willing to manage non-licensed premises.

The EPA's strategic priorities focus on issues posing greatest risk to the environment, including activities licensed under the act and protection against diffuse pollution. The EPA utilises incentives and regulatory disincentives to promote environmental protection and behaviour change. However, voluntary incentives programs in general by themselves have been found to be ineffective, and the EPA needs to utilise its regulatory powers under the act to deter environmental harm.

The chair of the board and the board itself have demonstrated their leadership in this issue over the past two years. The EPA board has made this a priority issue, that is, how to effectively best combine regulatory and non-regulatory tools to achieve sustainable outcomes at the least cost to the community. It is a national and international debate, and our EPA is investigating opportunities and learning from international and national approaches. The EPA does not focus solely on regulatory tools to protect the environment, but these enforcement tools are essential to provide a strong message to the community that protecting the environment is important.

In relation to an issue raised by the member for Stuart about the Eyre Peninsula fires and the allegation that the EPA was trying to stop people from burying sheep, I am advised that, after discussions with PIRSA, the EPA advised that the preferred option for the disposal of sheep was burial. The EPA also met with SA Water to discuss disposal of animal carcasses, and the EPA advised that burial in pits without lining in this situation was acceptable. It should be noted that the EPA's key contact officer received an email from the Executive Director of the Office of Local Government thanking the EPA for its advice and prompt assistance in responding to the bushfires. It should be further noted that the EPA provided advice and assistance on numerous other issues associated with the bushfires, including waste disposal and animal disposal, and provided officers at short notice to attend the site.

The pressure on everyone during something like a bushfire is obviously enormous, but you still have to try to be wise about the decisions that you make, even if you make them quickly. Dr Vogel also made an urgent policy decision on learning about the events on the Eyre Peninsula and sought that essential EPA contact be organised and the issue be dealt with as a priority. The EPA's key role in this instance was to provide advice and support to other operating departments in a sensitive and compassionate manner.

I now turn to the allegations about the behaviour of EPA staff. To meet the challenges of administering the EPA Act, the EPA has developed internal procedures with checks and balances to ensure effective and consistent decision making, an example of which is the executive level committee that assesses all EPA staff recommendations for refusal of development applications to ensure that they are consistent and meet legislative requirements. The EPA also uses its compliance and enforcement guidelines to ensure consistency and to promote the rationale for its decision making with regard to compliance with the act. The EPA takes a continuous improvement approach to its licensing system under the act to ensure that licence conditions are consistent and valid.

Some 10 principles are covered in the best practice environmental regulation guidelines that provide criteria against which the conditions of a new or reviewed licence must be assessed. Every new licence condition proposed by the EPA goes through a quality assurance process to ensure that the criteria are met. The board assumes overall responsibility for all decisions and processes to ensure that the objects of the act are appropriately promoted in EPA decision making. The board has overall responsibility for the governance of the EPA and in the circumstances of sensitive cases, particularly any decision that may have an impact on employment or play an active role in assessing and deciding on an appropriate course of action.

The EPA comprises dedicated people who often are required to negotiate in very difficult circumstances, as I have said before. This is a daily occurrence and, with the numerous decisions that are made, it is not unusual that one party or sometimes both parties to the dispute are not totally happy with the outcome. Having to balance economic, social and environmental factors in all its decisions is an onerous task that is not taken lightly by the EPA.

In relation to the activities which have ceased and which are of environmental significance which the EPA seeks to licence, and which the LGA is still considering, I advise the house of the following. It is expected that closure and post-closure plans will be required for activities such as tanneries, oil refineries, petroleum and oil production, timber preservation plants, landfills, certain chemical works, lead smelters and metallurgical processing. Local governments that operate landfills (and that is just one of these types) are currently required to prepare closure and post-closure plans through the licensing process. However, the proposed amendments clarify the process for the provision of these plans. Without such clarification for landfills and other high risk activities there would be insufficient control and protection for the community and the environment. These provisions are available to other jurisdictions such as Victoria and New South Wales, relating to ceased activities.

I now refer to the member for Heysen, who, in referring to ceased activities of environmental significance, talked about new owners of the site who may have no notice whatsoever of the contamination. The purchaser of a property may be aware of a licence or a new form of post-closure licence for a waste depot through the section 7 notice of the Land and Business (Sale and Conveyancing) Act 1994 and may be aware of a post-closure environment protection order if it is registered on lands title documents. The bill specifies that the EPA may apply to the Registrar-General for registration of the new form of post-closure EPO and documents in the Lands Titles Registration Office.

In the event that the new form of post-closure EPO is approved by parliament, the registering of such an order and land will also appear on the section 7 notice. The vendor of the property is required to present this notice to prospective purchasers of the property. It should be noted that the current reporting requirements under section 7 notices does not include all licences and is limited to premises licensed for a waste depot or licensed for the production of certain waste. Section 7 notices also record sites that have been subject to an environmental assessment undertaken by the EPA.

The member for Davenport raised the question about the ability to license a site where the polluting activity from the site has ceased but contamination remains. He said, 'My

understanding is that there is no retrospective nature in that provision.' The advice is that provisions relating to post-closure only apply to activities licensed after the commencement of the bill. However, the purpose of the legislation supported by key groups such as the LGA is to ensure effective management of such sites into the future. Currently, there remains a risk to all future owners acquiring a site where there are substantial ongoing liabilities and with no means to address this. The bill offers the proactive means to manage sites from such ceased activities as early as possible and preferably as a continuation of current licensed operations.

The member for Davenport in his comments also referred to burning off in the Adelaide Hills and then made the statement that the EPA does not like to deal with these issues because it is resource intensive. That is an example of those kinds of circumstances, I guess. The advice is that the EPA Act as currently written allows public authorities such as councils to appoint authorised officers and use and administer the compliance and enforcement powers and functions within the act to protect local environments. Councils are in a much better position to evaluate the sensitivity of the local environmental impacts attributable to activities on domestic premises and other premises not licensed by the EPA, rapidly to respond to mobile, unpredictable or irregular activities causing environmental nuisance, such as emissions from coffee roasting processes, than a centralised state agency. The local body obviously understands the local circumstances.

I would make a more general point, too. Some in local government argue that this provision is an example of the government trying to cost shift or move to councils a responsibility that is currently the state's. I reject that notion. As the member for Fisher made the point, the Department for the Environment has been around since only the beginning of the 1970s or the late 1960s, under the Hon. Glen Broomhill, who was the first minister, but the whole idea of environmental management and environmental protection is relatively new. To say that the state is shifting to local government I think is a misunderstanding of it. All levels of government, it seems to me, have a responsibility for environmental protection.

The commonwealth has its responsibilities and certainly undertakes them through the EPBC Act. The state has certain responsibilities and, largely, those relate to licensed activities that are significant potentially polluting state activities. It seems to me reasonable that local authorities should look after local kinds of issues. As I understand it, the Local Government Act, when it was recently amended, included a provision that local councils should have that environmental role. So, each level of government should be taking up its responsibility in its local area.

The member for Davenport stated that it would cost the same for the EPA to put an officer in a car to drive around and issue fines and penalties for airconditioner noise and so on as a local council, so why do we not do it? I think it is pretty obvious that the claim made by the member for Davenport is clearly not true. The time spent and the distance to be travelled from a centrally located agency, even if it was regionally located, obviously impacts on costs. In a local council area there might be half a dozen issues a month in relation to environment protection. It would be very expensive to have someone sitting in head office somewhere who goes out, drives there for half an hour and drives back, spending the whole day doing one job.

It would be much more straightforward to have someone in the local council, who is already an authorised officer under other pieces of legislation, who knows about regulatory processes, to undertake that job. Since at least 1988, local government roles and functions have included environment management and protection responsibilities identified in the Local Government Act and by-laws, the Public and Environmental Health Act and, of course, the Development Act. The member for Morphett hoed into the government in relation to the LGA and said, 'The way in which the government is treating the LGA is just abysmal, and the way in which the EPA is treating local government is even more abysmal.'

Between 1997 and now, the Local Government Association, councils and the EPA have been continuously involved in looking at the shared provision of environment protection services, so this has been going on for eight years. Sixty-five per cent of councils in South Australia currently have authorised officers under the act: two-thirds currently have them. Between 15 and 20 per cent of councils contact the EPA each month through the Local Government Support Unit for assistance on a range of matters associated with the act, including use of certain equipment and complaint databases. I absolutely reject both the claims made by the member for Morphett that the government has no decent relationship.

He went absolutely over the top in his claims and revealed himself to be a very foolish man—and also a man that one should not have a conversation with in the corridor. I think that his habit of quoting in here statements that have been made in corridor and private conversations, as my colleague the minister for agriculture told the house today, is deplorable. But the point is that the state government and local government, through the LGA, have a very good relationship. We meet on a very regular basis through the Local Government Forum, and I have been meeting with them over many environmental issues. The nature of the letter sent to the parliament by the office of the LGA demonstrates that level of cooperation.

There is a high level of trust between the state government and the LGA in relation to negotiation over these issues, and we will continue to do it. Even though we have a desire to reach agreement with the LGA over a whole range of issues, it is still the job of the government to determine whether or not something will go ahead. We would like to get the LGA's endorsement of our policies, obviously, but that does not necessarily mean that we are going to allow them to apply the veto to it. This particular issue is difficult for local government because local government, I understand, is split over whether or not to have this power given to it under this legislation. Some want it and some do not.

We have been trying to get an answer out of them for many months. This legislation has been in the parliament now since October, and I do not know how many months, if not years, before that we have been dealing with the LGA over this issue. To say that we should wait forever until we get a response I think is ridiculous, though we will continue to work with them and, hopefully, before this is discussed in the other place, we will have a response from them. I am not saying that we are necessarily going to reach agreement. A similar situation exists with the EEA, where we have had very good discussions and negotiations but, ultimately, reached different positions.

The member for Morphett made some other points about local government. He said, 'If this is such a great thing for local government to do and it will not cost it anything and it will be a fantastic opportunity for local government to control

some of the supposed outrages in the area, then surely it is better to have it in the more centralised authority so that no-one can be accused of varying the attitudes and their enforcement.' The proposed changes in the act in relation to administering agencies assists to delineate roles. The EPA has power to veto any development that ultimately will require a licence. It has little or no influence on all other development, including approvals for many retail, commercial, industrial and residential developments. These are solely the responsibility of local government.

So, it is just logical and sensible for them to deal with the consequences of some of their planning decisions. To have one authority deal with the development aspects and then have another tier of government deal with any adverse environmental impacts where development decisions may not have had sufficient regard for environmental matters is not an efficient, effective or logical system in any way at all. Since at least 1988, local government roles and functions have included environmental management and protection responsibilities identified in the Local Government Act and by-laws, the Public and Environmental Health Act and the Development Act.

The proposed amendments do no more than give councils the option—that is the point I would like to make for members—to use the act—they can opt in if they choose—including cost recovery provisions as an alternative to the abovementioned legislative tools to provide environment protection services to their communities. Councils already have responsibilities to provide environment protection to their communities, and resourcing such responsibilities is a matter for their consideration. The normal model for partnership for environment protection across the community is that the EPA deals with high risks, for example, licensed activities, and assists local government in managing unlicensed activities. The partnership arrangement was a clear recommendation of the ERD Committee's investigation into environmental protection in South Australia. I understand the member for Schubert, at least, will support our proposition.

The member for Davenport made the point that under the bill we will allow local government by its own decision to vote to become an administering agency. Then, when it becomes an agency, the government can never take that role off it. That was in the original clause. The clause is one of many that were amended as a result of the submissions from local government, in consultation with the LGA. They made the point that, if they can opt in, they wanted the right to opt out. If the house were to amend that it would be against the wishes of the LGA. Personally, it is something I could live with, but I will not be supporting such an amendment.

The point was made about the Kangaroo Island Council looking to bring its rubbish to the mainland at $300 a tonne because the EPA is forcing it to do that. The claim was made that the EPA is no friend of local government. The Kangaroo Island Council made a decision to dispose of its waste on the mainland after considering its options for managing waste. This was not forced upon the council by the EPA. The council has informed the EPA that it will cost about $130 a tonne to transport and dispose of its waste on the mainland. This does not include the cost of ancillary resources which would apply if the council had decided to dispose of its waste on the island. The EPA has worked in a cooperative manner with the council to address its unique waste management issues.

This approach has also been taken with other individual councils and regional council groups. The EPA and its board, in conjunction with the LGA, has been talking with numerous local governments about management of solid waste landfill. This dialogue will continue to ensure understanding between parties and to allow specific solutions to be developed to most easily manage these complex issues. No decisions have been made and no change of policy has been made.

The member for Morphett said that he attended the Mid Murray Council recently and was told that the EPA is forcing a local government council to redevelop a landfill at the cost of $200 000; if it does not do this it will be fined $150 000. I am advised that the EPA is not aware of that landfill redevelopment in the Mid Murray Council area. It appears that reference is made to a site in another council area. The EPA is not aware of another site where a redevelopment is demanded at the cost of about $200 000 or where otherwise a fine of $150 000 would apply. The EPA would be happy to receive greater clarity and details relating to this matter. I invite the member for Morphett to tell the house or to tell me.

In relation to civil penalties, the member for Davenport says he understands that all the major employer associations are concerned and, indeed, oppose the introduction of civil penalties. Well, I can tell the house that my officers have been working with a range of organisations, including the EEA (to which the member has referred), but also we have been working Business SA. On the basis of negotiations and discussions with Business SA and the tabling of some amendments, I believe they do not oppose this particular provision.

Ms Chapman interjecting:

The Hon. J.D. HILL: They have a choice as to whether they oppose it, of course they do. Their request was that we delay the introduction for 12 months, in which time Business SA and the EPA will cooperatively undertake an extensive industry education program that will go beyond the issue of civil penalties and address a broader range of issues concerning environment protection laws relevant to the business community. I thought that was a reasonable request. It is a new way of doing it. The business community does not necessarily understand it; 'Let us try to educate them.' I thought that was good cooperative—

Ms Chapman: Are you going to do that?

The Hon. J.D. HILL: Yes, I have said that.

The Hon. I.F. Evans interjecting:

The Hon. J.D. HILL: No, I am doing it as a result of their request. I would have had it in now. Obviously, you have not read the tabled amendments. The member for Davenport says—

The Hon. I.F. Evans interjecting:

The Hon. J.D. HILL: I was happy to have them in straightaway—and I invite you to talk to Business SA. I wanted six months, they wanted 12 months. The member for Davenport says he understands that we are introducing civil penalties because the EPA has not been successful in getting enough criminal convictions. The main reason for the introduction of civil penalties is to provide an alternative to criminal prosecution for those less serious offences. The negotiated civil penalties will provide another option for business rather than continuing straight to prosecution for contravention of the act that warrants a higher response than an environment protection order, for example.

The member for Davenport said he has been interested in a sewage spill and he has asked me a number of questions about the Hallett Cove Conservation Park. The advice I have received is that it is very difficult for the EPA—and, in fact, no prosecution will be launched in relation to that—because

it has not been possible to prove that there was a deliberate act, subject to either criminal prosecution or civil penalty, for environmental nuisance under the amended offence. I should put that differently: future spills such as that at Hallett Cove, where there is no deliberate act, may be subject to either criminal prosecution or civil penalty for environmental nuisance under the amended act.

I was criticised for not taking action in relation to the series of spills at Hallett Cove. Why did the EPA not prosecute? Why did the EPA do certain things? The member for Bright raised that matter with me. The facts are that it was not done negligently; it was not done intentionally; and there was no long-term environmental damage. So there was no way we could actually ping them for this matter. Under the provisions that we are introducing, we would be able to do that.

The EPA is not dissatisfied with the level of criminal prosecutions it is currently undertaking. However, some of these prosecutions, for example, relatively less serious offences by KI council and, recently, Murray Bridge council, and the prosecution relating to disposal of liquid waste to land, do not necessarily warrant the heavy-handed approach of criminal prosecution and would be much better served using the proposed civil remedies. The EPA will continue to use criminal prosecution in the absence of civil penalties where this remains the best available course of action. It has to be in the interests of business at the lower end of the scale not to have a criminal conviction against the name of the company but, rather, have a civil penalty applied. If they do not want to go down the civil penalty line they do not have to do that. They can follow the criminal line.

I know that when potential investors from other countries look at industry in South Australia and see they have had a criminal conviction, it does give them cause to think again. It is much better for the company; the matter is dealt with swiftly; they avoid having to go through the expensive legal process; the matter can be dealt with quickly to get it out of the way. I think for many businesses that would be a far preferable outcome.

Some members on his side of the house, I am advised by the member for Davenport, are concerned that this process could be an elaborate form of fundraising for the EPA, because 'once the allegation is made, the business has no alternative other than to negotiate the outcome for civil penalty or go to court and take its chances'. At the moment, they have only one option; that is, go to court and take their chances. At least under this bill they have a second option. The proposed civil penalty power does provide an alternative to criminal prosecution for less serious contraventions under the act. In the absence of civil penalty, the EPA has little choice but to take the matter to court.

The member for Davenport also suggested that the principal reason the EPA wishes to introduce civil penalties is that the EPA has not been successful in getting enough criminal prosecutions. Well, there has been a steady number of successful prosecutions for the EPA since 1998. For example, in 1998 there were two; 2000, six; 2003, five; and approximately eight matters are with the Crown Solicitor's office or before the courts arising out of contraventions occurring since 2002.

A number of matters are currently under investigation. The level of successful prosecutions I believe rebuts any assertion that the EPA has been unable to take criminal action against individuals, government agencies and corporations committing environmental offences. It should be noted that, when you go through the judicial process, the average time to complete an offence is around 16 months. For more serious offences, this can be justified in terms of cost and public interest; for less serious offences, and in the absence of reasonable alternatives, it presents a significant cost to all parties that may be better applied if the ability to negotiate outcomes is available.

The member for Davenport refers to correspondence from the Engineering Employers Association. I note that the previous concerns expressed by the association about definitions described by regulation have been addressed by the government amendments that seek to ensure proper consultation with prescribed bodies when prescribing definitions by regulation. The proposed amendment to the environmental nuisance provision is not to lower the threshold against which nuisance events are measured. The definition within the act remains the same: it is aimed at removing the need for the regulator to prove what the alleged perpetrator of the nuisance was thinking at the time. An incident of alleged nuisance will continue to be assessed against the provision and any other provision contained in various EP policies.

The concern about whether the amendment will make the assessment of what is or is not 'nuisance' is a more subjective affair. The provision does not seek to change the criteria against which an emission is measured. The provision seeks to remove the requirement for the regulator to prove what the individual or corporation was thinking at the time it made the noise, smoke, dust, fume or other waste emission. In relation to noise, smoke, dust, fumes and odour, there has and will continue to be a need for the regulator to assess the reasonableness of the alleged nuisance, as indicated in section 3(a)(i). In the case of waste, 3(a), the regulator will still need to show an adverse effect on the amenity value of an area caused by the waste. What the regulator will no longer have to do, if the amendments are carried, is prove to the court what the alleged offender was thinking at the time he or she caused the nuisance.

The wording of the current provision (section 82) requires the regulator to show not only that a person intentionally or recklessly caused an environmental nuisance but also prove that the person had knowledge that an environmental nuisance would or might occur. One can see that, in the event that an accused person simply refuses to answer any questions, the EPA would have a seemingly impossible task of proving that knowledge. While the member correctly points out that there have been only two unsuccessful attempts at trial to prove the charge of environmental nuisance (the matters of Harvey v Brambles (trading as Cleanaway) and Harvey v Steinert), I am advised that a number of investigations do not proceed to prosecution simply because the EPA is unable to prove what the accused was thinking at the time.

An example of such a case was the release of a large amount of partially treated sewage from the metropolitan Christies Beach waste water treatment plant (in my electorate) in May 2002. Whilst there was insufficient scientific evidence to show that material or serious environmental harm had resulted from the incident, there was certainly ample evidence to show that the presence of a plume of partially untreated sewage a short distance off the coastline was an offensive and unreasonable nuisance to nearby residents and beachgoers. Whilst this loss of amenity caused by the presence of waste would appropriately place it into the category of an environmental nuisance, the EPA could not

proceed with the charge against the operator, as it was unable to show that the operator of the treatment plant knew that the incident was occurring or that the nuisance would be caused.

It should be noted that the individual or corporation will still be able to rely on the general defence provided in the legislation—namely, section 124—where the alleged offence did not result from any failure on the defendant's part to take all reasonable and practical measures to prevent the commission of the offence. The general defence is similarly available to alleged perpetrators of contraventions against the strict liability offences of causing material or serious environmental harm also present in the act—that is, sections 79(2) and 80(2) of the act. I am also advised that, in its current form, environmental nuisance is a more difficult offence to prove than higher order, strict liability offences relating to serious or material environmental harm.

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.

The Hon. J.D. HILL: I have a number of issues relating specifically to matters raised by members opposite which are not, in fact, relevant to the legislation but are concerns they have about particular issues, and I will write to the members with a response to those matters. The member for Heysen asked whether or not there was a report into the trial involving the Adelaide City Council, the City of Port Adelaide Enfield and the Adelaide Hills Council. I am advised that a report, entitled 'Sharing environmental protection responsibilities under the Environment Protection Act: a review of the 18-month trial project between the EPA, the Environment Protection Agency', as its administrative unit was then known, 'Adelaide City Council, Adelaide Hills Council and the City of Port Adelaide Enfield', was released by the steering committee of the trial in August 2002.

The report states that the trial was implemented to identify positive outcomes and issues of concern that might be encountered by sharing responsibilities for environmental protection between state and local government agencies under the EPA Act of 1993. The outcomes of that trial, and the numerous discussions between the EPA, the LGA and individual councils, have been fundamental to informing the proposals relating to administrative agencies in this bill. With great pleasure, I move the second reading stage of this legislation, and I look forward to what I imagine will be an interesting committee process.

Bill read a second time.

In committee.

Clause 1 passed.

Clause 2.

The Hon. G.M. GUNN: Clause 2, commencement, relates to when this act will come into operation and become effective. The minister's second reading speech ranged very widely and, for some reason best known to him, he decided to criticise some of us, including me, for raising matters of concern in the parliament—the elected forum. If that is an offence, and if that is a problem, why does this parliament meet? Surely, minister, if citizens of this state are treated unreasonably, it is the role and the proper function of their representative to raise these issues on their behalf. The minister said that the public servants were offended and affected, and the same thing applies to the long-suffering citizens who do not have the ability, or the opportunity, to be represented by lawyers. They do not have all the back-up facilities, as they are just ordinary individuals and small councils going about their business. Therefore, it is entirely up to the EPA to rectify these problems, in my view, if they acted unreasonably.

From my experience in this place and elsewhere, one unreasonable act always generates another. It is unfortunate and should not happen, but what process does an ordinary citizen or small council undertake when it is in this predicament, or when they are threatened with huge monetary policies? The minister referred to electoral figures, and I am surprised that the EPA would now engage in looking at voting patterns in electorates. If they want to go down that track, we know what the ground rules are, and we know what we will do. I complained about the Mount Remarkable Council. This fax came through today, minister. It was addressed to my colleague the member for Morphett. It stated:

A good example would be our current waste management rationalisation project. We are in the process of constructing a new 'green fields' engineered landfill facility, constructing two transfer stations and closing nine existing landfill sites. We are a medium to small council with a small budget. Last year's allocation to this process was $100 000. This year's budget allocation towards the total cost is $100 000. We anticipate that the total project cost could be somewhere in the vicinity of $600 000-$750 000. These are just the capital costs and not the running, management and ongoing costs.

If you would like a more detailed briefing on the matter, please let me know, together with any specific questions that you may have, and I will endeavour to answer them. As you may be able to understand, we will need to be somewhat conservative in our comments about the EPA requirements, etc., as we are shortly to commence the process to have our newly constructed landfill licensed and do not wish to jeopardise this in any way at this critical stage.

That is the Mount Remarkable Council. That is one of the complaints that I made. If the minister were to talk to the Chairman of that council, the chief executive, you would understand the problems they have had. They are a well organised, good, responsible group; and it is my job to raise their issues. I am very pleased to have got this opportunity today. So, I say to the minister: it is in your hands and in the EPA's hands whether the criticism continues. If they act responsibly we will not have any complaints and we will not have to raise these issues. However, the minister had a shot at me and he expects us to sit there and take it without responding. Well, I think he knows enough about this place, and if he uses my comments that is fine, but there are a few other comments from some of your colleagues that we will be happy to use. The member for Reynell thought it was a good experience for people to have rough roads. We will use that one, and I have a few others.

When you give any organisation too much power, this is the end result. A simple comment from the minister can resolve most of these issues. Can he assure us on this clause, before we go any further, that it is the aim of the EPA and the officers to respect people's rights, to treat them fairly and not threaten them, and to return telephone calls to elected officials, whether the mayor of a council or other people. Can he assure us that they will not be using CII surveillance tactics running around videoing people, and that they will respect people's rights. If the minister gives an affirmative response we can make a bit of progress.

The ACTING CHAIRMAN (Mr Snelling): Before I call the minister, I point out to the committee that we are in fact dealing with clause 2—Commencement of the act. I have

given the member for Stuart some latitude, but I ask members to stick to the clauses that we are dealing with.

The Hon. J.D. HILL: I thank the member for Stuart for his second reading speech—that was good. I will address what I think was the substance of what he was really saying. He did not like the fact that I was critical of some of the approaches taken by those opposite, but I think in debate you are going to get disagreement about certain things. You put your views forcefully; I put mine forcefully. I do not resile from that. You are entitled to your views, and you express yourself perfectly ably within this chamber. I am not trying to stop you from doing it, but I am also entitled to put my point of view. I also believe that public servants who are not in here have a difficult enough job and it is demoralising for them to hear politicians continually criticise and bag them. It could have been in a balanced way about some of the positive things they had done. I point out to the member for Stuart that during the recent bushfires 100 officers of the Department for Environment and Heritage were involved in fighting bushfires. They were national parks officers who put down everything else and fought bushfires, and they exhausted themselves along with the other volunteers. They are public servants. They are the people who look after our park system.

The Hon. G.M. Gunn interjecting:

The Hon. J.D. HILL: I am just saying that it has to be in a balanced way. I made the point that in any organisation there are always going to be difficulties, but I make it plain to the member for Stuart, and this is the undertaking you sought, it is my expectation as it is the expectation of the head of the EPA and the board of the EPA that officers of the EPA will conduct themselves in an appropriate and civilised manner and treat the general public in a reasonable way. Sometimes they have to be tough—there is no doubt about it—in the same way that a police officer has to be tough. It does not mean they can use that as licence to be rude, unfair or unreasonable but they still have to be direct on occasions. I will give the honourable member an undertaking that the head of the EPA would be to talk with him about particular concerns.

In relation to local councils, I have also asked for the issue of landfill to be placed on the agenda for the next meeting of the Local Government Forum which is a body which brings together representatives of the Local Government Association—both rural and metropolitan—and four or five ministers of the state government and various public servants to thrash out the issues that a number of local councils have with EPA regulations in relation to landfill. The point I make is that the rules that are in place have not changed. The EPA is looking at a new arrangement, and they are negotiating with them. They understand that for some councils it will be difficult, and they are being very flexible in the way that they are trying to implement these new arrangements. Nothing has been decided: they are still there for negotiation. I think that local councils are panicking a little bit. As I have said before, I want to try to work with them, and the EPA wants to work with them, to get a good outcome because we cannot have landfill sites that are not properly managed. Wherever they are we cannot just allow people to dump stuff and leave it there to allow birds and rats to get into it and allow that to leach out into the water system. They are the concerns. We cannot have people dumping asbestos, batteries and car tyres with food and a whole bunch of stuff and just ending with a mess because sooner or later somebody is going to have to clean it up. So, we want to work with councils.

However, I give the honourable member an undertaking that we will work with councils, particularly rural councils. It is my intention to meet with a number of rural councils for the Fleurieu Peninsula in a week or so. I have met with councillors down in the South-East and I will happily meet the Local Government Authority generally. I give my undertaking that officers of the EPA will work as hard as they can to deal with the public in an appropriate way which means fairly and reasonably, with tact and understanding.

Clause passed.

Clauses 3 and 4 passed.

Clause 5.

The Hon. J.D. HILL: I move:

Page 5—
Line 13—After 'regulation' insert:
(after consultation under section 5A)
Line 29—After 'regulation' insert:
(after consultation under section 5A)

The Hon. I.F. EVANS: The opposition supports the amendments.

Amendments carried.

The Hon. I.F. EVANS: Clause 5 deals with the changes to section 3 of the act, which is the interpretation of the definition section of the bill. The first is 'environmental nuisance'. The current provision for 'environment nuisance' in the act reads as follows:

'Environmental nuisance' means any adverse affect on amenity value of an area that is caused by noise, smoke, dust fumes or odour.

That is now being changed to read as follows:

'Environmental nuisance' means any adverse affect on the amenity value of the area that is caused by pollution.

You therefore have to ask yourself, 'What does 'pollution' mean?' That is a broadening of the definition of 'environmental nuisance', because it now takes it outside of simply noise, smoke, dust fumes or odour, and an environmental nuisance is anything that has an adverse affect caused by pollution. Therefore, what is pollution? If you go to the definition of 'pollutant' under the act, it states:

Any solid, liquid or gas, or combination thereof, including waste, smoke, dust fumes and odour, or noise or heat.

That is the existing provision, not the minister's amendments. Then the following is added:

anything declared by regulation or by an environment protection policy to be a pollutant;

Therefore, that is a very broad coverage. We are not quite sure what the regulation will be; we will have to wait and see. Then you go down to 'pollute', and the definition of 'pollute' under the act is as follows:

To discharge, emit, deposit or disturb pollutants, or cause or fail to prevent the discharge, emission, deposit or disturbance or escape of pollutants.

Pollution has the corresponding meaning. I have read out those definitions because, as with all this legislation, the definitions underpin the resultant powers. The powers relate back to causing an environmental nuisance. What the government is doing is broadening the scope of 'environmental nuisance', which in turn broadens the definition of what is a pollutant and then, in effect, broadens the definition of 'pollute' as a consequence. Can the minister explain why the government is broadening the definition of 'environmental nuisance', and can he give me some examples where the current definition has been inadequate?

The Hon. J.D. HILL: I understand that it is a complex set of provisions. It is probably best if we look at the definition

of 'pollutant', which is the one the member referred to. If you look at (d), the fourth section of that, the bit that has been crossed out, 'anything declared by regulation to be a pollutant'. You can declare something as a pollutant now. What is being added to this is the notion of an environment protection policy; it is extending it to that area. That is really another legal form of regulation.

The other thing about it, of course, through this process of amendment, is that we can do that only if we have consulted with a prescribed set of bodies. So, that is an additional safeguard that has been brought into the legislation which is not there now: we do not have to consult with prescribed bodies. The government could decide tomorrow to make something a pollutant and then introduce it. We now have to go through a process of consultation. The second part of (d), that is, 'but does not include anything declared by regulation or by an environment protection policy not to be a pollutant.' So, that gives us the power to limit, which is not currently there.

The following example is particularly related to the water quality EPP that is developed. You might have a general set of statements about what is a pollutant. You could then include something by regulation not to be a pollutant. For example, fluoride might be stated as something by regulation which is not a pollutant. The public policy is that putting fluoride in the water system is good for people's health, and you would not want to set up a EPP which said that water quality has to be at this level and anything which is in it is a pollutant, and then allow someone to attack the system which allows fluoride to be put into the water. I think that is a reasonable example.

The Hon. I.F. EVANS: I think the minister gave me an example of why he is bringing in a provision to not include anything declared by regulation to be a pollutant. Fluoride would not be a pollutant. Can the minister give me an example under the current definition of 'environmental nuisance'? The definition is as follows:

> Any adverse effect on the amenity of an area that is caused by noise, smoke, dust fumes or odour

Can the minister give me an example of where that is failing the system, or where that is inadequate? Why are we broadening it?

The Hon. J.D. HILL: The example that I have been given is, for example, arsenic in the water system. It could be that arsenic above a certain threshold is a pollutant, and arsenic below a certain threshold is not a pollutant. So, it would be allowing the EPP to establish very precisely the standards in relation to pollution.

The Hon. I.F. EVANS: The definition of 'undertake' the minister is now putting into the act reads as follows:

> undertake an activity includes commence or proceed with an activity or cause, suffer or permit an activity to be commenced or to proceed;

My layman's interpretation of that clause, then, is that it means that someone has to knowingly permit something to proceed to be caught by the definition of 'undertake'. In relation to 'waste', there is now a change to the definition where 'waste' means as follows:

> any discarded, rejected, abandoned, unwanted or surplus matter, whether or not intended for sale or for recycling, reprocessing, recovery or purification by a separate operation from that which produced the matter;

I wonder whether the minister can explain to me why he is bringing into the definition 'not intended for sale or for recycling'. I assume we talked to the recycling industry about that issue. Can the minister advise what its response was to that particular provision?

The Hon. J.D. HILL: The answer from parliamentary counsel to the first question in relation to the definition of 'undertake' was 'No' to the notion you proposed. However, I am advised that new—

The Hon. I.F. EVANS: So, they do not have to knowingly know? So they can inadvertently permit something to happen and they get caught.

The Hon. J.D. HILL: The new definition of 'undertake' will allow the EPA to require a person who causes, suffers or permits a prescribed activity of environmental significance to commence or to proceed to obtain a licence—so we are talking about licensing. This is consistent with the definition in the Development Act 1993. Given the broader range of people whom the EPA may licence, there is a new power proposed under section 36 of the act so that the EPA may exempt a person from the requirement to hold a licence such that only the most relevant person may. I think that the member is making an academic point. As I understand it on the advice that I have sought, under section 126 of the existing act, Proof of intention etc for offences:

> Subject to any express provision in this act to the contrary, it will not be necessary to prove any intention or other state of mind in order to establish the commission of an offence. . .

That is in relation to offences so, unless it is stated to the contrary, any of these provisions do not necessarily include the notion of intent, but in a practical sense how do you undertake something without knowing that you are undertaking it? It is perhaps an interesting debating point but I do not think that there is any practical—

The Hon. I.F. EVANS: It is proceeding without your knowledge.

The Hon. J.D. HILL: This is about activities that ought to be licensed, so how would you set up a metal foundry without knowing that that was what you were doing? I think that that is the logic of it. Can you give me an example of what you might be thinking of?

The Hon. I.F. EVANS: I wanted to know what your interpretation was. What is your answer on waste recycling?

The Hon. J.D. HILL: This, I understand, picks up the national NEPM on waste, so this is a national definition. I am also advised that your government instructed drafting of this particular amendment when you were considering the legislation. The advice is that the current definition of waste is 'a leftover surplus of unwanted by-product'. The proposed definition will allow a regulation or an EPP to provide a specific meaning to the term by allowing it to declare a particular thing to be waste for the purpose of the act. The amendment was proposed to enable the EPA to resolve a range of issues associated with the transport of waste and the conduct of waste depots. Given the dynamic nature of the waste industry, administrative flexibility is necessary in determining whether or not particular materials are waste. The definition has been drafted to complement the definition of waste used in the national environment protection movement of controlled waste between states and territories measure.

The Hon. I.F. EVANS: This is my last question on this clause, minister. I am probably wrong, and I hope that I am, but in your answer you mentioned waste depots. Does this definition of waste now apply to waste depots under the bill? If an organisation has things for sale or for recycling, does that mean that it now has to become a waste depot and be licensed? I will give you an example: my local Lions club has

a property and it pays a peppercorn rent to the Mitcham council. It sells recycled goods, making about $50 000 a year. Under this definition, that is now waste, because it is recycled goods for sale. I am now wondering whether that becomes a waste depot and does the EPA get the opportunity to license it?

The Hon. J.D. HILL: The answer can be found in schedule 1, the third page, under section 3, Waste or Recycling Depots: it refers to 'the conduct of a depot for the reception, storage, treatment or disposal of waste'. It relates to scale and provides:

(ii) the quantities of waste handled do not exceed 100 tonnes per year. . . (h) the handling for charitable or non-profit purposes only of beverage containers. . . (i) a depot that the Authority is satisfied will be conducted for such limited purposes that requirement of an environmental authorisation under Part 6 would not be justified.

So, regarding the sort of body that you are talking about, the advice that I have had is that it would not need a licence.

The Hon. I.F. EVANS: Unless they go over 100 tonnes.

The Hon. J.D. HILL: The final section is a catch-all. Section 3, subparagraph (i) states:

a depot that the Authority is satisfied will be conducted for such limited purposes that requirement of an environmental authorisation. . . would not be justified.

So, a charity group or a part-time organisation would be fine. That is the advice that I have.

Mr MEIER: Was the recycling industry consulted and what is its definition of waste? In other words, is it happy with the definition of waste?

The Hon. J.D. HILL: We have consulted broadly in relation to this. I cannot answer particularly whether we have had correspondence from the waste recycling industry, but this has been out there for everyone to see. This is bringing the definition into line with national standards. It is not an unusual or perverse thing that we are doing here in South Australia. I cannot answer you specifically about whether or not it has a view. We will check to see whether we got a response.

Clause as amended passed.

Clause 6.

The Hon. J.D. HILL: I move:

Page 5, line 38—
After 'regulation' insert:
(after consultation under section 5A)

This amendment relates to discussions that we have had with the Engineering Employers Association. We undertook to include this to provide for consultation with prescribed bodies before certain regulations are made—a regulation is made declaring something to be a pollutant or a waste or to constitute environmental harm. I must consult with prescribed bodies in accordance with the regulations in relation to the proposed regulation.

The Hon. I.F. EVANS: The opposition also strongly supports that amendment.

Amendment carried; clause as amended passed.

New clause 6A.

The Hon. J.D. HILL: I move:

After clause 6—
Insert:
6A—Insertion of section 5A
After section 5 insert:
5A—Consultation with prescribed bodies required before certain regulations made
Before a regulation is made declaring something to be a pollutant or waste or to constitute environmental harm, the minister must consult with prescribed bodies, in accordance with the regulations, in relation to the proposed regulation.

This is a very similar provision to the one that I have just moved.

New clause inserted.

Clause 7.

Mr HANNA: I move:

Delete clause 7 and substitute:
7—Amendment of section 7—Interaction with other acts
(1) Section 7(3)(c)—delete paragraph (c)
(2) Section 7(4)—delete subsection (4) and substitute:
(4) This act does not apply in relation to petroleum exploration activity undertaken under the Petroleum Act 2000 or the Petroleum (Submerged Lands) Act 1982.

I move this amendment to remove an exemption that currently exists in the Environment Protection Act. It is in relation to waste products arising from the uranium mining process. This was the subject of private members' legislation that was unceremoniously dumped by the major parties when I introduced it some time ago. But it has a special currency now with the recent announcement of the expansion of mining operations at Roxby Downs, so I am more hopeful of support this time and I commend the amendment to the committee. The way it works is that the EPA is exempted from investigating certain matters, and I do not think that investigation should apply in respect of the waste products arising from uranium mining, especially considering the sensitivity of underground water deposits in the north of the state.

The Hon. J.D. HILL: The government does not support the proposition moved by the member for Mitchell. We went through this matter, I think, some time ago. The deletion of section 7(3)(c) would not impact on the application of the Environment Protection Act as the Roxby Downs Indenture Ratification Act 1982 specifies the limitation of the application of other legislation such as the Environment Protection Act.

The removal of sections 7(4)(b) and 7(4)(c) also is not supported. Following the government's removal of the section 7(4) exclusion in the Environment Protection Act by the Statutes Amendment (Environment Protection) Act 2002 the EPA now has jurisdiction over matters that are also being regulated under the Radiation Protection and Control Act 1982. I am also advised that, if waste produced at a mining operation is a product of a prescribed activity of environmental significance, the EPA Act would apply to the waste. So, we have powers in those areas now. Accordingly, the EPA has a power, under the Environment Protection Act, to regulate the uranium processing industry in so far as it is not inconsistent with the indenture act. Based on this advice, the EPA has significantly broad powers to regulate the processing of uranium mining in South Australia, and that is achieved through other legislative processes, as I have said.

The effect to the EPA of removing the section 7 exception, in a general sense, would be the extension of the EPA Act application to mining waste produced by activity that is not a prescribed activity of environmental significance—for example, the many smaller mines situated at Coober Pedy or the waste associated with the Leigh Creek operations. Therefore, the EPA would gain an increased role in the regulation of what are currently deemed non-significant activities. Accordingly, an adverse effect of the amendment is that it would focus EPA resources on less significant areas.

I guess there are three issues. Firstly, we cannot restrict what the indenture says. Secondly, the EPA now has significant controls over the uranium industry. Thirdly, the

broader extension would mean that the EPA would be involved in things which it just does not have the resources to do. Despite my general sympathies with the position that the member put, I am afraid that I cannot support him on this occasion.

Amendment negatived; clause passed.

Clause 8.

The Hon. I.F. EVANS: With respect to clause 8, which amends section 9, I realise that this is already in the act but I just want to get some clarity as to how this is applied. Section 9(2) provides that, where a person causes a pollutant to come within the state or causes environmental harm within the state by conduct engaged in outside the state and the conduct would, if engaged in within this state, constitute a contravention of this act, the person is liable to a penalty in respect of the contravention. If their conduct in the other state is an activity that would normally be licensed in South Australia but is not licensed in the other state, does that mean that the conduct is a contravention, or, because it is normally licensed in our state, because of the fact that it is not licensed in the other state, it is therefore not a contravention?

The Hon. J.D. HILL: The advice I have is that this is not to do with licensing. I guess it is a bit like smoke from your back yard coming into my back yard.

The Hon. I.F. Evans interjecting:

The Hon. J.D. HILL: Yes. So, it is not whether it is licensed.

The Hon. I.F. EVANS: Can I explain further? Take smoke from my back yard to your back yard. I am Victoria, you are South Australia. In South Australia, my activity would normally be licensed, but in Victoria my activity is not licensed. So, my smoke goes into South Australia and pollutes. Therefore, I think I have contravened that section, because if I was doing in South Australia what I am doing in Victoria, creating smoke, that would constitute a contravention of the act. In South Australia, though, my activity would be licensed and, therefore, I do not think I would be contravening the law in South Australia, because it is a licensed activity to emit a certain amount of smoke. In Victoria I am not licensed. Because I am not licensed in Victoria, and my smoke goes into South Australia, does that mean that I contravene the act?

The Hon. J.D. HILL: I think it is probably an interesting debating point, and it might be something that would need to be tested in a court. What this provision is really about is to provide legal power for this state to protect itself against someone who is doing that. A likely thing would probably be a chemical or an oil spill or something like that, which crossed the state border, or pollution of a watercourse or something like that—something falling into the Murray.

The Hon. I.F. EVANS: What about the effluent coming out of some of the Victorian towns into the Murray that ultimately will flow into South Australia? If they are licensed in Victoria, does that still contravene this act? So, it is a live example.

The Hon. J.D. HILL: There is also the issue about how close it is to the border. This was a matter raised, I think, by John Olsen when he was Premier. I think he was alleging, or suggesting, that any activity polluting the Murray could potentially be subject to extraterritoriality. My understanding is that that is not the case: it has to be a very direct connection. In order to get up an example of extraterritoriality you have to prove a very close connection between the act and what is happening in South Australia. Someone flushing a toilet somewhere in Victoria—in Kerang or somewhere—could not be taken to have polluted the River Murray in South Australia, for example.

An honourable member interjecting:

The Hon. J.D. HILL: I do not think they can. I think there would be very strong legal impediments to doing that. What this would attempt to do is provide the power for us to pursue that, but I do not think that we would succeed. My best advice is that it is about the pollution effect in South Australia. It would be what our laws said was pollution, not what the laws in that state said. As I say, this is kind of an academic point. I am not aware of any cases where this has been pursued. If it were, I guess the High Court ultimately would have to make a decision.

The member for Goyder asked me about waste management. We have talked to the Waste Management Association and I understand it was happy with the provisions and the consultation with them.

Clause passed.

Clauses 9 and 10 passed.

New clause 10A.

The Hon. G.M. GUNN: I move:

After clause 10—

Insert:

10A—Amendment to section 11—Establishment of authority

Section 11(4)—delete subsection (4) and substitute:

(4) In the exercise of its powers, functions or duties, the authority is subject to the direction of the minister (except in relation to the making of a recommendation or report to the minister).

This is a simple matter. We live in a parliamentary democracy where the people of South Australia elect people to this place, and some of them from time to time are given the honour and privilege of being ministers and hold a commission from the Crown and are subject to the will of this parliament. We can question a minister in relation to matters affecting the EPA or any other body but, if the minister has no authority in relation to that matter, then the minister cannot be held accountable for the actions of that authority. Therefore, in a parliamentary democracy, it is the right of this parliament to have the ability to question, to challenge, to move motions in relation to any organisation set up under the authority of this parliament.

All it does is give the minister, on those rare occasions, the authority to give directions if he or she or the government as a whole determines that it is necessary. This is a fundamental principle in our system of parliamentary democracy: that the minister have the ultimate authority. At the end of the day, if there is a real problem with the EPA, the minister is going to have to wear it, even though he or she has no ability to formally direct. They can request, they can talk to them, but I believe that this is proper, because in our system we must have the ability to question the minister. We have no ability to question the EPA.

The EPA is not obliged to talk to a member of parliament and not obliged to answer questions from members of parliament. It does not even have to consider our views. It has displayed that total indifference, and the minister got quite upset because we had criticised the EPA and its officers. That is a direct result of it wanting more power and the minister having insufficient power. That is why this particular amendment has been moved. This is purely a result of experience. This amendment has not been moved just because I woke one morning in a bad mood, not having had much sleep because I stayed here too late.

I have been a farmer, and the way some of these people are going they seem to want to attack farmers. They seem to have it in for me. They have brought this opportunity on themselves. Surely in a democracy none of these organisations should be outside the ambit of the authority of the minister or the parliament. Therefore, I move this because I believe it is fair, reasonable and proper. What it does is make the EPA and other organisations accountable. It makes them aware that they can embarrass their minister and their minister will then be called upon to answer, and may be subject to very aggressive questioning in this parliament. Therefore, it will make them more circumspect.

I believe it creates the opportunity for them to be more aware of the needs and to understand that they are dealing with ordinary little people, many of whom are not aware of the huge powers and resources that these people have at their disposal. One thing that I have learned in this place is that the average citizen is at a tremendous disadvantage when challenged by the government, its agencies or instrumentalities. First, they do not know their rights and they do not have the opportunity to defend themselves. Many of these people may intimidate them, and therefore, if the minister has to be accountable, the officers know full well that when a ministerial comes through they do not know what the next question is going to be.

I commend this measure to the house. It is a proposition that enhances democracy, openness and parliamentary accountability. In a democracy, that is the hallmark, and surely nobody could object to parliamentary accountability.

The Hon. J.D. HILL: The government does not accept the honourable member's amendment. As I read the amendment, this would put the minister in a position in relation to the EPA which would be similar to the position in relation to any other government department. Even under the former government, in the legislation before it was amended three or so years ago, the EPA had independence as an authority in relation to how it carried out various functions under the act, its various powers under the act. It was an objective body that made decisions. The issue about its independence was that the officers of the EPA who worked in the agency section were part of the department of the environment.

They had two masters, and it was that element that earlier legislation fixed up. This would be putting the minister in a position where he could determine whether or not to pursue a prosecution, or whether or not to investigate a pollution. I think that is a very dangerous position in which to place a minister. You want to have an arm's-length process in relation to these regulatory kinds of functions. It would be a bit like saying that the police minister could direct the Commissioner of Police about whether or not a particular criminal should be investigated or whether a particular arrest should be made. It would be a bit like the Auditor-General being directed by a minister. There are certain functions of government that really need to be at arm's length.

An even more extreme example would be that of the Attorney-General being able to instruct a magistrate about the outcome of a court case. You want to have an arm's-length, objective system as much as possible. I know that always creates other issues, but the principal thing here is not to have a government making those kinds of decisions; I think it would be inappropriate. In relation to the accountability of the EPA, the EPA is responsible to the parliament through me. Questions can be asked of me and I can get responses in relation to the financial aspects. I am directly responsible. The minister of the day does appoint the board and the government does appoint the CE/chair. The EPA is subject to the estimates process. The head of the EPA sits next to the minister during that process and members can ask whatever questions they like. One of the provisions in this legislation is an idea we picked up that was suggested by the member for Stuart. On a previous occasion a couple of years ago, when we were looking at this legislation, the honourable member asked me at the time whether or not we would have the ERD Committee of the parliament have an annual review of the EPA. I said I thought that it had merit and that I would consider it, and consider putting it into the legislation next time it came around. I have considered it and I think it still has merit and I am including it in the legislation.

The Hon. G.M. Gunn: One slight win.

The Hon. J.D. HILL: Keep trying, member for Stuart, you will have slight wins. It is clause 59. The honourable member said—probably in a better mood then than he is in tonight:

> I am somewhat heartened by the minister's final comments. I understand that another piece of legislation will come before the parliament. I would ask the minister seriously to consider in that intervening period the proposition that on an annual basis the authority be examined by the appropriate committee of this parliament, or, if necessary, a new committee, which in my view should consist of members from both houses. . . [I said] The members of the ERD committee are from both houses.

We seem to agree on that. I have taken that position, but I will not accept this position.

The Hon. I.F. EVANS: As I said at the start of my second reading contribution, the amendments of the member for Stuart have not gone through the party room of the Liberal Party. Therefore, they are conscience votes. I indicate, for all the reasons outlined by the minister, the shadow minister does not support the amendment.

The Hon. G.M. GUNN: The minister has reduced the independence of the board, because he has appointed the chief executive to be the chair of the board. That is the first flaw in the minister's argument. It is quite wrong and improper to have the one person. The board is there, as I understand it, to supervise the operations of the EPA. Therefore, the board needs to be independent and at arm's length from the day-to-day administration. Its role is to question and challenge, like it is the role of a board in a public company.

The second matter is that the minister said it would be wrong for the Attorney-General to direct a judge or magistrate, but those decisions are subject to appeal. If a magistrate makes a decision and people are aggrieved or think they have been treated unfairly, they can appeal to a higher court. But with these arbitrary decisions, and the way it is, people do not have those rights. I say to the minister and the shadow minister: make no mistake, these provisions will come as these organisations move out into the community, become more obstructive and interfere with the day-to-day lives of people. The public will not wear it. Industry and commerce will not wear it. People can think that I am a thorough nuisance. They can think my point of view is unreasonable and they can brush me aside. Let me say that we have reached a stage in our democracy where the general public is absolutely sick and tired of being interfered with and having their day-to-day lives hindered and harassed by unreasonable activity. We have gone overboard with on-the-spot fines, so there will be an absolute revolt.

The minister wants to talk about a political issue. Let me tell the minister now that some of these issues will certainly

become political. The minister needs only one of these bad cases to be highlighted the few weeks before an election and it will change votes—make no mistake about that. We will stir it up. This proposal is fair and reasonable. This proposal is one for which the minister should accept responsibility, and he should not be able to brush it aside. The minister has created this opportunity. He has given the EPA these unfettered powers. The more power one centralises in the hands of one person, in my experience, the less sensitive they are, particularly to people who have not had the same opportunities or the same ability to defend themselves.

I know what has happened with the councils that are terribly concerned about the costs being imposed upon them. It is very well for the minister to say that he wants to have discussions with them. The board of the EPA should have an elected official from local government on it. It is not a representative board. It should have someone from the mining industry and someone from the farming industry on it. I say to the minister that I am disappointed with the response, but it will not stop me from pursuing these matters continuously and vigorously.

The Hon. J.D. HILL: I will answer a couple of comments made by the honourable member. In relation to the chair and CE being the one person, I thought long and hard about this before deciding on the model for the EPA. I spoke at length to the former chair of the EPA, who, I thought, did a very good job. My analysis of it was that the EPA board did not exercise the control and authority over the agency that it ought to have because the chair of the board was a part-time person. The day-to-day operations were really done by the public servants. I think the board had a relatively ancillary role. The way I have constructed it now with the agency people, the public servants directly managed by the board, gives the board a stronger role—

Mr Hanna interjecting:

The Hon. J.D. HILL: I am not sure what the honourable member is saying. The way I have arranged it is that the board controls the operations of the agency directly, not through an agreement with the director of the environment department but, rather, directly controls it. The fact that the chairman is also the CE means that the chairman of that body is a full-time employee and there is a much stronger connection between the two parts of the EPA. In the past, they were quite separate. The authority would have its views and it would meet once a month, make a few decisions and rubber stamp what had happened in the agency. There is a much stronger connection now between that group of experts—you may disagree on who they are—and there is a much greater leadership role played by that group than in the past. That is a practical experience. I think it is working well.

The honourable member made the comment that there are no rights of appeal. People who are aggrieved can go to their member of parliament, they can go to the Ombudsman and they can seek judicial review. Part 13, section 106, goes through a range of areas where people can make appeals. The honourable member said that people are sick and tired of public servants and the EPA interfering in their lives. The fact is that 4 000 or so members of the community contact the EPA each year asking it for interference in some activity because they are saying, 'We want your help.' So there are thousands of members of our community each year asking the EPA to become involved.

The Hon. G.M. GUNN: I thank the minister for that explanation, but it does not equate to what takes place in the real world. The Governor of the Reserve Bank does not chair the board of the Reserve Bank, nor does the manager of BHP chair its board; they have a separate chairperson. If there was a problem in the past, perhaps it was as a result of the then chairperson. Some of the difficulties we face are, I believe, because the board has not worked out its position, which ought to be to challenge the operation of the EPA in order to ensure its transparency so that fairness and justice prevail. The minister said that, at the end of the day, you can go to members of parliament, but he criticised some of us, when people have come to us, for raising issues in this place.

The Hon. J.D. Hill: It is how you raise them.

The Hon. G.M. GUNN: Well, minister, from my experience in this place, if you are not fairly determined about these things, you are brushed aside. The unfortunate thing is that the EPA does not have to take any notice of a member of parliament. What has upset many is that elected officials, such as the Mayor of Quorn, are ignored and treated with sheer contempt.

The Hon. J.D. Hill: When was that?

The Hon. G.M. GUNN: A couple of years ago.

The Hon. J.D. Hill: That was before the changes were made, and that is the model you want to return to.

The Hon. G.M. GUNN: No, I do not. You have centralised all this authority in one person. I have put forward this suggestion with the best will in the world and with the best of intentions, and I have done so in the long-term interests of this state, particularly people in small businesses, agriculture, or operators of a very small nature who do not have the ability or resources to defend themselves. Many of them get caught up when they make a small mistake and are descended upon by people from on high. I might not be successful tonight, but I want to say to the committee that I guarantee that before many years have passed this provision will be put back into the act and that these other matters, plus others, will also go back into the act.

People can think, 'We beat Gunn this time, and we got away with it,' but more people like me, not fewer, will come into this parliament, because the public is getting sick and tired of having their day-to-day lives interfered with, and there is nothing the minister can do to stop it. People will not tolerate being told from the front bench how they will operate. I have done my best here tonight on this measure in the interests of the little people who have not been given a fair go. I say to Dr Vogel that it is all very well for him now to say that people can go and talk to him. I suggest that what he needs to do is focus attention on the strata of people below him who have their own agendas and who seem to think that they are there not to consider feelings, sensitivities or rights of others to get on without being interfered with.

I think the way that council has been treated is unfortunate, and the letter I read out from the Mount Remarkable council says it all. I have done my best. I have raised these issues, and Dr Vogel and the EPA cannot say they have not been warned. The criticism comes not only from me but from other members and the wider community. The EPA has to work out whether it is an organisation that wants to respond to malcontents and agitators who have a chip on their shoulder, or whether it wants to take into account the genuine welfare of people, and allow them to get on by encouraging the people of South Australia to create wealth, opportunities and jobs. I rest my case.

New clause negatived.

Clause 11 passed.

Clause 12.

Mr HANNA: I move:

Page 6, line 27—After 'subsection (7)' insert:
and substitute:

(7) Of the persons appointed to the Board by the Governor—
(a) one will be appointed as the presiding member of the Board; and
(b) one will be appointed as the deputy presiding member of the Board.

(7b) The presiding member and deputy presiding member must have qualifications and experience relevant to the environmental protection and management or natural resources management that are, in the opinion of the Governor, appropriate to the presiding member's functions and duties under this Act.

In the minister's last contribution, he referred to the current model of corporate governance in respect of the EPA. He pointed out that he favoured the chief executive officer's being also the chair of the board. He referred to the board rubber-stamping decisions of the public servants in earlier times. I want to ensure that that practice does not continue. I want to see the board playing a very active and keen role in overseeing the decisions (at least in broad terms) of the public servants in the EPA.

Crucially, there must also be robust oversight of the performance of the chief executive. I do not see how that can occur when the chief executive also chairs the board. Typically in boards, whether they be of non-profit associations or in the commercial corporate world, the chair is quite a dominant position. When there is a chief executive officer on the board (and, normally, CEOs are on the boards of all these types of associations), the chief executive officer is an even more dominant officer because they have all the research and knowledge that comes with actually running the enterprise. Inevitably, that means that board members are at some disadvantage. If board members are properly chosen, they will have their own particular area of expertise, and they may have a number.

However, the chief executive officer will always be a step ahead in having access to all the corporate knowledge of the organisation. I am suggesting that a better corporate model would be to have a separate and therefore independent chair of the EPA, so that the board members can see some leadership on the part of the chair if there is a need to scrutinise more closely the decisions or the performance of the chief executive officer and the public servants who serve underneath the CEO. I am suggesting this model without any slight or reference intended to the current incumbent of the CEO position. It has nothing to do with that: it is really a debate about the appropriate model of corporate governance.

I am appealing to the minister's preference for a board which will not simply rubber stamp the EPA's decisions (that is, the public servants' decisions), but a board which will be able to scrutinise what the public servants are doing from the chief executive officer down through the ranks. I move my amendment on that basis.

The Hon. J.D. HILL: As I read the honourable member's amendment, the CE would still be a member of the board and the government could still appoint the CE as the chair of the board. What the honourable member is doing is introducing a level of flexibility so that it does not necessarily have to be the CE.

Mr HANNA: I refer to clause 12 of the bill, which, in turn, refers to section 14B—and I need to refer to that in some detail.

The Hon. J.D. HILL: I am happy to have a closer look at this between the houses. I am not entirely sure how this might work. If it were to create flexibility so that a CE could still be the chair, or, alternatively, another member of a board, I personally do not have any problems with that. That would be a reasonable compromise between what this government wants and what a future government may want. That would not cause me any great concern. However, if it were to exclude the current CE, it would cause me great concern because I would then be obliged to sack the chair of the EPA. We would possibly need to make other administrative arrangements because, at the moment, I meet weekly with the chair of the EPA who also happens to be the CE. However, if we were to do what the honourable member is suggesting, it would impose quite a burden on a part-time person to meet with me on a weekly basis to go through the issues of the agency.

Theoretically and practically, I appoint the board, the board then employs the CE who is also the chair, therefore I can relate to him as the chair but I do not relate to him as the CE, if the honourable member understands what I am getting at. It would cause some significant administrative difficulties with the way in which we operate, and I would be very hesitant to agree to this without fully understanding the implications of that. However, I give the member a very strong undertaking that I will closely examine it between here and the other place.

Mr HANNA: The bill leaves alone section 14B(3); that is, 'the chief executive of the authority is a member of the board ex officio and the remaining members of the board will be appointed by the Governor'. That is unchanged; the chief executive remains a member of the board. It is subsection (7) which is affected by the bill. Subsection (7) currently provides that the chief executive of the authority will chair meetings of the board. As I understand the bill, it simply deletes subsection (7) of section 14B so that the chair does not necessarily have to chair the board meetings. Now that may simply be to take into account the occasional necessary absence of the chief executive officer.

However, I am replacing that subsection (7) with two subsections which work together. I restate that the chief executive remains a member of the board but, of the persons appointed to the board by the Governor—that is, effectively by the Governor on advice of the cabinet which in turn will be the subject of submissions by the minister for the environment—one will be the presiding member and one will be the deputy presiding member. That means that the chief executive who was appointed by someone else is going to be in a different class. One of those who is appointed directly by the Governor has to be appointed as presiding member and deputy presiding member. The minister was right in thinking earlier that my intention was to necessarily make the chief executive a different person from the person who is the chair of the board. That is exactly the point.

When I say chair I should be using the term presiding member because that quite rightly is the term employed in the bill. I have also included a subsection which harks back to the act before it was last amended in relation to the chief executive officer, and it imposes a requirement that the presiding member and deputy presiding member must have qualifications and experience relevant to environmental protection and management or natural resources management that are appropriate. That ensures that the people appointed in this regard will have a handle on the issues which have to be dealt with by the EPA.

The short-term implications are that the minister will need to give thought to appointing board members who would be appropriate to appoint as presiding member or deputy presiding member. If there needs to be work on some

transitional aspect or commencement of that clause, that is something that could be addressed by way of amendment or clarification in the Legislative Council. However, I am hoping that the minister would agree that the principle should be that they should be separate people for the reasons of independence and oversight to which I have referred.

The Hon. J.D. HILL: All I can say is that I do not accept that principle although I understand that some would like to see them separate, so I do not mind having a piece of legislation which gives that flexibility. As I say, I will examine it between the houses. The nature of the organisation that has been established has been worked through over a period of time and to just change one element like this would create some administrative difficulty, if not severe impediment to the good working of the organisation at the moment. I do not accept the principle and I urge the house not to support this measure. I will have a look at it between the houses and I will look at an amendment which would allow the kind of flexibility which might suit the house in a general sense because it is the government's position that they ought to be the one person, but I can understand that others would want it to be differently.

The CHAIRMAN: Is the member for Mitchell willing to accept the minister's assurance that he will consider this between the houses? Obviously he could consult with the member for Mitchell and check out any detail.

Mr HANNA: Sir, if the amendment is not accepted by the committee, I am grateful for that assurance. It may be.

The CHAIRMAN: The amendment is only accepted by vote. The minister has given an undertaking that he will consider this seriously between the houses.

Mr HANNA: I am sorry, sir, you are presuming that you know the result of the vote, are you?

The CHAIRMAN: No, I am just saying that the honourable member made some comment about its being accepted. We would know that only by way of a vote—either accepted or rejected. But if the honourable member wants to test the committee, that is his prerogative.

Mr HANNA: I am sorry, sir, are you suggesting that I do not proceed with the amendment on the basis of the minister's assurance?

The CHAIRMAN: I am saying that an option is for the honourable member to consider what the minister is offering, that is, to consider it between the houses. If the honourable member wishes to put this to the committee, that is his right.

Mr HANNA: Sorry, sir, what were you suggesting?

The CHAIRMAN: The honourable member can accept the minister's assurance that he will consider it between the houses without, obviously, our voting on it. But if the honourable member wants to have it voted on one way or the other, he can put it.

Mr HANNA: By suggesting that we do not vote on it, is the chair suggesting that I withdraw the amendment?

The CHAIRMAN: It is open to the honourable member not to proceed with it if he accepts the minister's assurance that the minister will consider it between the houses. If the honourable member wants to put this, it will either be accepted (obviously) or rejected, and that will determine the fate of it one way or another.

Mr HANNA: I appreciate your very active role in chairing the committee, sir, but I did want to respond to the main objection of the minister in relation to the proposition, that is, in relation to administrative arrangements. Correct me if I am wrong but, as I understand it, the minister receives a weekly briefing, the purpose of which is to maintain familiarity with current issues before the EPA. I do not see any legislative reason why that could not continue with the chief executive, because it is the chief executive who will have or should have knowledge of the day-to-day issues, problems and so on of the agency.

Perhaps it would be appropriate to have less frequent meetings with the chair of the board—who, after all, it is envisaged, would be a part-time person, notwithstanding their remuneration—because, after all, there will be different matters to discuss. One would think that the chair would be thinking more in the realms of strategy, oversight, general direction and the like. I hope that answers the minister's concerns.

The Hon. J.D. HILL: This is a very serious matter. The government does not accept the principle that the honourable member is putting. I make that plain, and for the reasons that I gave to the member for Stuart. However, I do acknowledge that other views about this could be explored. But it is more than about my meeting: there are a range of things. For example, the current board was established without the thought that one of the other members of that board would be the chair. If we were appointing a board thinking that one of those people would be the chair, we would have thought about it differently.

Secondly, the current CE/chair of the EPA has a contract with the government that makes him both those things. We may well be in breach of his employment contract as a result of this if it were to go through and thus be liable to who knows what. I am just saying that this causes considerable administrative and, perhaps, legal difficulties, which I do not think are worth taking on just as a result of a kind of amendment that is dropped in at the last moment.

I am happy to look at it to see whether there is a way of trying to accommodate at least some of the concerns that the member for Mitchell has expressed.

The Hon. G.M. GUNN: I support the member for Mitchell very strongly, but the minister is the victim of his own action. This parliament was not consulted. This house was not consulted when the government, in its wisdom, decided to make the CEO the chairman of the board.

The Hon. J.D. Hill interjecting:

The Hon. G.M. GUNN: Hang on. It was the government's decision, and it was an unwise decision.

The Hon. J.D. HILL: The honourable member is reflecting on a decision made by this parliament. The parliament chose to have the CE and the Presiding Officer of the EPA as the one person. That was a decision made by this parliament, not by me.

The Hon. G.M. GUNN: I am not reflecting on the person: I am saying that I think that it was an unwise decision.

The Hon. J.D. Hill: It was a decision of the parliament.

The Hon. G.M. GUNN: The further the debate goes tonight, minister, the more people are starting to come to that conclusion. If we are going to have an organisation such as the EPA, which on the minister's initiation has been clothed with wide powers, we should have a board to oversee the operations to ensure that there is appropriate decision making and that appropriate standards are set. The person who chairs that board should not be the person with their finger on the day-to-day management. If that was the case, every chief executive would be chairman of every large company in this country. If that happened, the securities commission would have something to say about that. That would be contrary to good commercial ordinance and governance.

The member for Mitchell is absolutely right in putting this matter before the committee tonight. It is an appropriate separation of powers. It is in the public interest and in the interest of the EPA that there is a separation between the CEO and the board and that the CEO has to justify his decisions to the board. That is why you appoint these people. The minister has created this situation, and therefore he cannot escape his own decision making.

What this committee has to do is make decisions which are in the long-term interests of the people of South Australia. They are the ones who will have to wear these decisions, and we are here to stick up for them. It is unfortunate that we have created this situation, but it is not an egg that cannot be unscrambled. This parliament can change it—and it should change it in the interests of transparency, fairness and proven public administration practice in the interests of all concerned. Without any reflection on Dr Vogel, it is an unnecessary and unwise course of action that has taken place.

The CHAIRMAN: In an effort to expedite things, and it is ultimately up to the committee, it would be possible to have a clause which related to the present incumbent, that at the expiration of his contract some new arrangement could come into force. I am just trying to expedite matters. That is something that would have to be considered in detail by the minister between the houses. The minister has given an undertaking that he will do that; it is up to the committee whether it accepts that or whether we test this by a vote.

The Hon. R.J. McEWEN: I believe that the proposition put by the member for Mitchell to the minister is fundamentally flawed. The notion of split lines of reporting from a chief executive to a chair of a board, and to the chief executive to the minister of the Crown, would be contrary to any administrative theory I am aware of. The debate here, which is different, of course, is about whether or not one individual can share the role of chair of the board and chief executive of an organisation. It is not the common administrative model you would find in public corporations. Notwithstanding that, there are models where the CEO chairs the board. There are pros and cons in all of that.

I do not mind further exploring that debate. Under the Public Corporations Act, the chair of the Forestry SA board is accountable to me, as the principal shareholder on your behalf, and the CEO reports to the chair. The CEO cannot report to me. Whether or not the CEO and the chair can be one and the same person is a separate debate. I would certainly not support any proposition where there were split lines of reporting between the chair of the board and the minister and the CEO and the minister. With that structure, in effect, the board is no more than an advisory board to the minister; it is not a board in its own right. I think we should have further debate about this model, but I do not accept the proposition that has been put before us tonight. However, I am happy to continue an in depth discussion about governance models generally, governance models as they relate to public corporations.

There are implications of this in terms of the Public Corporations Act where of course at the moment, if the minister wishes to direct the public corporation, he needs to do that in writing and notify the house. So there are very clear understandings about the role of the minister and the role of the chair and, equally, the role of the CEO and the role of the chair.

The Hon. I.P. LEWIS: I share the views expressed by the member for Mitchell. Contrary to what the member for Mount Gambier says, it is not fundamentally flawed at all. To accept what the member for Mount Gambier is saying in the first instance in simple terms is to suggest that the Premier should be the Chief Justice—or could be—and that, accordingly, having made the law or directed the organisation which would make the law (the government), the Premier then gives advice which must be followed by the Governor to assent to the law and then goes and sits as Chief Justice to determine whether or not the law was made validly and accurately. The proposition is crazy.

Why have a board if the CEO of the organisation which puts on the ground a service said to be in the public interest is also the person who has control over the intimate agenda (the detail of the agenda) of board meetings and determines as chairman of that board what propositions are in order and what are not and who will be heard or not heard on any issue which any member of the board may see fit to raise? That denies the reason and the necessity for having a board.

To come to the particular point made by the member for Mount Gambier, the minister will not be a member of the board and will not know what is going on in the board other than that he or she is advised by the CEO. And if the CEO chooses, regardless of who that may be from time to time, to avoid reporting anything to the minister that makes the minister uncomfortable, you immediately have the mess that caused the stashed cash controversy all over again—only worse, because the chairman of the board can cover up for himself as CEO (or herself if it happens to be a woman, and I think women would be no more or less tempted than men to do that). In this day and age there is far too much proselytisation of argument by people in senior positions rather than objective commitment to the pursuit of beauties that are outlined by someone else.

The Public Service is there to serve the public interest, and the CEO of any organisation—whether it is the Environment Protection Authority or the department of consumer affairs or any other government agency—has to be accountable ultimately to an elected representative, and that is agreed, but in the process the more careful scrutiny of the detail of how the policy is being implemented by the agency (that is, how they are implementing the policy) has to be given oversight, and that is the purpose of having the board. You simply cannot short-circuit it and make it a nonsense in logic. You need to have separate people doing separate tasks. Humans are fallible. This is not a blessed trinity or a blessed duality and, in consequence, either abolish the board or make the chair separate from the CEO. It is otherwise a waste of time, and that is the reason for my saying that, in principle, organisational structures put there in the public interest need to be separate.

The Hon. R.J. McEWEN: The member for Hammond makes a number of valid points, particularly about the separation of powers or the separation of functions. It was not that part of the proposition of the member for Mitchell that I said was flawed. The part of the proposition that I said was flawed was the notion of the CEO reporting both to the chair of the board and to the minister of the Crown. That part in any organisational structure is flawed. The debate that the member for Hammond commenced was the debate that I understood the minister to have said that he was prepared to explore further between the houses. That was the debate around the role of setting policy and delivering the service and whether or not the one individual could manage both processes, that is, could chair that body that was responsible for setting policy and, equally, be accountable to that body for the day-to-day delivery of that policy.

I made the point that that is not the normal corporate model, but it is a model that exists, and we ought to way up the pros and cons of a number of those models in exploring what are the best long-term government arrangements around the EPA. I understood that that was the part of the member for Mitchell's proposition that the minister said he would pursue. The other part of the proposition in relation to dual lines of reporting and accountability of the CEO was the part that I said I simply could not countenance. It is flawed.

Mr HANNA: This business about the chief executive reporting to the minister is not part of my proposition before the house, and I say that to reassure the member for Mount Gambier, the minister. I made those remarks only in answer to some concerns raised by the minister, but if there is a separate chief executive and chair of the board there are other ways of resolving the reporting issues, and I am confident that that can be done. It has been done in the past, and it is done in countless other organisations. If that means that there is heavier reliance on the chair of the board on the part of the minister, and that the chair of the board has to be more active than other members of the board, so be it. However, I will summarise that the principle is that the board needs to have clout when it comes to overseeing the performance and direction of the chief executive officer and those in the ranks below him or her. At the moment I believe the model gives the board less clout, less power and less influence when it comes to overseeing the EPA, and I want to reverse that.

The world's worst practice, I suppose, in this state at least, was the state bank. If I can characterise that in simple terms, the chief executive reported to the minister, and the chief executive snowed the board and snowed the minister until the problems were so bad that the minister and the government decided to back the cover-up rather than the exposure. It was the exposure which it was the board's function to ensure. So, that illustration shows that a robust board with an influential chair is a safeguard which we do not have in the present system. Although it has got nothing to do with the financial affairs of the EPA, as in the state bank case, we are talking about our state's natural resource assets, and I am just as concerned about them.

The CHAIRMAN: The first option is the minister's offer to look at it between the houses, and it is up to the member for Mitchell whether he wants to accept that offer and technically withdraw his amendment to look at those issues. The other option is that we put this amendment to the vote. Does the member for Mitchell want to indicate whether he wants to put it to the vote?

Mr HANNA: Sir, do you really need an indication from me either way? I am here to put forward ideas that I sincerely believe are for the good of South Australia and, in this case, for the protection of our natural resources. If you are suggesting that I do not proceed with my amendment then I am sorry, but I am going to proceed with it. I sincerely hope that you are not offended but it is something that I believe should be tested in this place.

The CHAIRMAN: I am just setting out the options.

The Hon. I.P. LEWIS: I would like to further illustrate the concern I share with the member for Mitchell on this point. The CFS does not have a board chaired by its CEO; neither does the SES; and neither does any public hospital in this state. As a parliament we were mistaken to make an exception in this instance and our deliberations were, perhaps, less than adequate in the circumstances.

I do not know what time of the night or day it was when the clause to which the member for Mitchell has now drawn attention was first debated in the legislation but the simple fact is that it is bad, it is crook, it is inappropriate. It does not happen in any other democracy or any other similar agency within the structure of our own constitution. We are idiots to let it remain, and we are inviting upon ourselves responsibility for the mess we will get ourselves into somewhere down the track if it continues.

The committee divided on the amendment.

AYES (20)

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

NOES (21)

Atkinson, M. J.	Bedford, F. E.
Breuer, L. R.	Caica, P.
Ciccarello, V.	Conlon, P. F.
Foley, K. O.	Geraghty, R. 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.
Rau, J. R.	Thompson, M. G.
Weatherill, J. W.	White, P. L.
Wright, M. J.	

PAIR(S)

Kotz, D. C.	Rann, M. D.
Goldsworthy, R. M.	Stevens, L.

Majority of 1 for the noes.

Amendment thus negatived; clause passed.

Progress reported; committee to sit again.

ADJOURNMENT

At 11.50 p.m. the house adjourned until Thursday 10 February at 10.30 a.m.