HOUSE OF ASSEMBLY

Tuesday 24 May 2005

The SPEAKER (Hon. R.B. Such) took the chair at 2 p.m. and read prayers.

BAROSSA WINE TRAIN

A petition signed by 1 005 residents of South Australia, requesting the house to urge the government to intervene to ensure the preservation of the Barossa Wine Train, was presented by the Hon. J.D. Lomax-Smith.

Petition received.

CORELLA CULLING

A petition signed by 87 members of the South Australian community, requesting the house to urge the government to implement a culling program to reduce the numbers of Corellas in the Flinders Ranges, was presented by the Hon. G.M. Gunn.

Petition received.

PARTNERSHIP (VENTURE CAPITAL FUNDS) AMENDMENT BILL

Her Excellency the Governor, by message, assented to the bill.

ROAD SAFETY

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

Leave granted.

The Hon. P.F. CONLON: This government announced on the weekend that it would spend more than $40 million during the next four years on police resources to help bring down the state's road toll. The funding includes:

- $35.6 million over four years for speed and red-light cameras;
- $3.3 million over three years for new speed detection units for police; and
- $1.54 million over four years for police to conduct rural road saturation to target speeding.

These initiatives are part of a range of measures that the government has introduced to make our roads safer. Statistics show that on average 59 per cent of fatalities and 50 per cent of serious injuries occur in rural areas, and the extra $1.54 million will ensure that police are able to make regional areas safer.

This government is committed to putting more police on South Australia's streets than ever before, and we have backed up this commitment by providing resources to increase our police force by an extra 200. The strong message from this government is that if you speed or disobey road rules you will be caught. This government is determined to bring down the road toll to lessen the suffering on South Australian families, and to punish those caught doing the wrong thing on our roads.

Further to these announcements, I wish to inform the house that as of 1 July 2005 all regulated fees and charges under the Road Traffic Act and the Motor Vehicles Act, including expiation notices, will increase by 2.9 per cent. In addition, all expiation notices for speeding and traffic light camera offences will be increased by 10 per cent with a cap of $350. The fact is that there is absolutely no safe way to run a red light, and there is no safe way to speed. All money from speeding fines goes into the Community Road Safety Fund—

Mr Brokenshire: Our initiative.

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

The Hon. P.F. CONLON: Thank you, sir. The opposition makes light of a very serious issue. All money from speeding fines goes into the Community Road Safety Fund, and this government spends more on road safety than it receives in speeding fines—

The Hon. Dean Brown interjecting:

The Hon. P.F. CONLON: —despite the inaccurate, as always, mutterings of the Deputy Leader of the Opposition. Speed and red light cameras are placed at intersections based—

The Hon. I.P. LEWIS: On a point of order, Mr Speaker, leave was granted by the house for a statement, not inviting the minister to engage in debate or in invective directed against the deputy leader.

The SPEAKER: I uphold the point of order. The minister should speak to the statement—

The Hon. I.P. LEWIS: If leave is used in that fashion, surely the house should not grant it.

The SPEAKER: I uphold the point of order. The minister should speak to his statement.

The Hon. P.F. CONLON: I am sorry, sir, I will not respond to the interjections; it is a shame that they are made. Speed and red light cameras are placed at intersections based on priorities determined by crash statistics. It is such measures that are contributing to a reduction in non-fatal crashes which has allowed the Motor Accident Commission to reduce compulsory third party premiums for the first time in 16 years.

This government's record speaks for itself. Hoon driving legislation, the graduated licensing scheme for young drivers and tougher drink driving laws have recently been passed by parliament under this government, and legislation to punish excessive speed is currently before the upper house, with tough drug driving legislation to be introduced later this year. This government will also introduce legislation this week to allow for double demerit points over long weekends and other nominated periods. We intend to implement double demerit points before the June long weekend, and we are seeking bipartisan support for this important measure.

The Hon. G.M. Gunn interjecting:

The Hon. P.F. CONLON: I acknowledge that it may not be with the support of the member for Stuart. Finally, too much has been said about the drivers and victims of the recent spate of fatalities and not enough about the families and loved ones they leave behind. I cannot imagine the horror and despair one must feel to lose a son, daughter, partner or parent. If these measures can assist in just one person not having to experience such enormous pain then they are worth it.

The Hon. Dean Brown interjecting:

The SPEAKER: Order! The deputy leader will be warned in a minute.

PAPERS TABLED

The following papers were laid on the table:

By the Treasurer (Hon. K.O. Foley)—

Regulations under the following Act—

Public Corporations—Information Industries Development Centre

By the Minister for Transport (Hon. P.F. Conlon)—

National Transport Commission—Report 2003-04

By the Attorney-General (Hon. M.J. Atkinson)—

National Classification Code—Part 6 of the Intergovernmental Agreement on Censorship

By the Minister for Environment and Conservation (Hon. J.D. Hill)—

Regulations under the following Act—
Water Resources—Barossa Prescribed Water Resources Area

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

Rules—
Industrial and Employee Relations—Industrial Proceedings—Amendments

By the Minister for Disability (Hon. J.W. Weatherill)—

Disability Action Plans for South Australia, Promoting Independence—4th Progress Report on Implementation—December 2004

By the Minister for Agriculture, Food and Fisheries (Hon. R.J. McEwen)—

Regulations under the following Acts—
Aquaculture—Miscellaneous Fees
Primary Industry Funding Schemes—Cattle Industry Fund

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

Local Council By-Laws—
City of Prospect—No. 3—Local Government Land
The Barossa Council—
No. 1—Permits and Penalties
No. 2—Moveable Signs
No. 3—Roads
No. 4—Local Government Land
No. 5—Dogs and Cats
No. 6—Nuisances Caused by Building Sites

By the Minister for Consumer Affairs (Hon. K.A. Maywald)—

Regulations under the following Acts—
Liquor Licensing—
City of Marion
Goolwa
Hamilton Secondary College
Prices—Unsold Bread.

KAPUNDA ROAD ROYAL COMMISSION

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

Leave granted.

The Hon. M.J. ATKINSON: Yesterday, the Leader of the Opposition asked me a question about the submissions of the Solicitor-General Chris Kourakis QC to the Kapunda Road Royal Commission. The leader said:

> Why did legal counsel representing the Attorney-General in the royal commission invite the Commissioner to make a suppression order when publishing his report on Kapunda Road?

The Solicitor-General made a submission to the Kapunda Road Royal Commission, as follows:

> Protection of the interest of particular persons may also move Your Honour to provide a separate confidential report on certain matters, particularly if publication would otherwise impede further inquiries or actions.

I will repeat that: 'if publication would impede further inquiries or actions'. The Solicitor-General continued:

> If Your Honour is so moved, the government invites you to do so.

The Solicitor-General then went on to draw the commission's attention to the legal provisions that would govern confidentiality of any such report. The submission went on to draw the Commissioner's attention to the reasons why a separate confidential report might be provided where publication would impede further inquiries or actions, including prosecutions, or where someone's reputation might be damaged on the basis of a mere recommendation that there be further investigations. Plainly, it is not in the public interest that any further investigation or prosecution that might be recommended by the Commissioner be compromised by the premature release of any such information.

The Solicitor-General made the submissions that he did because the Commissioner had earlier sought assistance on the legal basis on which a separate confidential report could be provided, if it became necessary to do so. The Commissioner sought submissions on that topic because of his concern to ensure fairness to all involved. The Solicitor-General did not submit that there should be a separate confidential report and made no such submission on behalf of the government in favour of providing one. The matter was left, as it should be, at the discretion of the Commissioner. It would appear that the leader's question was based on a mistaken understanding of the Solicitor-General's submissions.

The Hon. P.F. Conlon interjecting:

The SPEAKER: Order! The Minister for Transport is out of order.

NATURAL RESOURCES COMMITTEE

Mr RAU (Enfield): I bring up the committee's report on the Lower Murray Reclaimed Irrigation Areas.

Report received and ordered to be published.

Mr RAU: I bring up the committee's report on the Meningie/Narrung Irrigators.

Report received and ordered to be published.

SOCIAL DEVELOPMENT COMMITTEE

Mr SNELLING (Playford): I bring up the 21st report of the committee, on the Statutes Amendment (Relationships) Bill 2004.

Report received.

QUESTION TIME

ATTORNEY-GENERAL'S REMARKS

The Hon. R.G. KERIN (Leader of the Opposition): When the Attorney-General (complete with helmet and clips) spoke to the assembled cyclists protesting about the sentence handed down to Eugene McGee, outside Parliament House on 14 May 2005, and said 'I apologise for the outcome of our justice system,' for which part of the system was he actually apologising?

The Hon. M.J. ATKINSON (Attorney-General): I was pleased to be at the gathering on my bicycle, together with the member for Norwood. It was a surprise to me that the Leader of the Opposition was not there: obviously, he had something better to do that Saturday morning. What I can say is—

The SPEAKER: Order! the Attorney needs to answer the question. He is now starting to debate it.

The Hon. M.J. ATKINSON: It is quite true that I apologised to Ian Humphrey's widow, Di Gilchrist, and the Humphrey family for the outcome of this case. I did so because I think the outcome in its totality is unjust, and that is why the government has called a royal commission to inquire into the case. The royal commission is focusing on the police investigation and it is focusing on the prosecution of the case.

CHILD PROTECTION

Mr RAU (Enfield): My question is to the Minister for Families and Communities. How is the government helping families with young infants at risk?

Members interjecting:

The SPEAKER: The house will come to order.

The Hon. J.W. WEATHERILL (Minister for Families and Communities): I thank the honourable—

Mr Venning: This is a waste of parliament's time.

The Hon. J.W. WEATHERILL: This is a waste of parliament's time, the member for Schubert said.

The Hon. P.F. Conlon: He doesn't waste a lot of time; 20 seconds—

The Hon. J.W. WEATHERILL: That's right. I thank the honourable member for this question. Can I say—

Members interjecting:

The SPEAKER: Order! The house will come to order. There is too much audible noise. This is a very important issue.

The Hon. J.W. WEATHERILL: The safety and welfare of children is the highest priority for this government. That is why, within three weeks of coming to office, we commissioned the most extensive review of child protection that has ever been undertaken in this state. It has been followed up with $210 million of additional resources into our child protection system, which includes $9.1 million over four years for the innovative program that we launched last week in The Parks. Strong Families, Safe Babies provides hands-on support for those families that we have identified as being at high risk. We know that isolated families, families which do not have support or connections with their community and which may have a number of risk factors which include domestic violence, mental illness, drug and alcohol abuse, and perhaps also elements of intellectual incapacity in one or other of the partners, the guardians and the family, can potentially be dangerous places for children. This program helps families to create a safe and nurturing environment for young children by providing advice in a range of areas vital for an infant's wellbeing, including safety, nutrition, health and hygiene.

The sad truth is that some parents do not understand how to parent and need the assistance of the state to allow them to parent safely. Importantly, there is no compulsion with respect to access to this service. It is based on working with parents to help them to care for their infants, and it will also assist in referring to other agencies in providing holistic support for vulnerable families.

Today I had much pleasure in attending Cafe Enfield, which is attached to the Enfield Child Care and Early Childhood Facility, with the Minister for Health, the Minister for Education and Children's Services and the Parliamentary Secretary to the Premier for Volunteers to demonstrate the whole of government commitment that this government has to early childhood and, in particular, to coordinating our services. We know that this is the way forward. In the Layton inquiry Ms Layton said that, if she was to reduce her recommendations to one simple phrase, it would be 'greater inter-agency collaboration'. That is at the heart of our child protection system. We are very proud to be making up for the years of neglect when those opposite were last in government.

Mr BRINDAL (Unley): Sir, I have a supplementary question.

Members interjecting:

The SPEAKER: Order! The member will resume his seat until the house comes to order. There will be no heckling or calling out from the government benches. The member for Unley has the call.

An honourable member interjecting:

Mr BRINDAL: It is not funny. My supplementary question is to the Minister for Families and Communities. If this government is so committed to child protection, given the Layton report, why did it take so long to be dragged kicking and screaming into the Mullighan inquiry? The Mullighan inquiry interim report speaks for itself.

The SPEAKER: Order! I thought the member for Unley was asking a supplementary question. It is more than a supplementary question and he is introducing comment into his question. Does the minister wish to respond?

The Hon. J.W. WEATHERILL: I thank the honourable member for the question, because I think that the time we took to put in place the Mullighan inquiry was time well spent.

Members interjecting:

The Hon. J.W. WEATHERILL: No, they want an answer, sir, and they will get one. The time we spent—

Ms Chapman interjecting:

The SPEAKER: Order, the member for Bragg!

Members interjecting:

The SPEAKER: The minister can conclude his answer now because no-one seems to be listening.

The Hon. J.W. WEATHERILL: I would like to give an answer because I think it is a very important issue that has been raised and it deserves a full answer. Our first steps upon receiving the Layton review were to care for children presently in the system—they were our priorities—so that this happened to no more children. Before we chose to look at the sins of the past, we chose to fix the system for those children of the future. That is why we acted immediately to establish the paedophile task force and to inject $210 million of extra resources into our child protection system.

We did take some time in the way in which we chose to deal with allegations of child sexual abuse in care. Can I say that we took some time about the choice of the commissioner, and I believe we made a very wise choice in Commissioner Mullighan—a very wise choice indeed. Notwithstanding—

The Hon. M.J. Atkinson interjecting:

The SPEAKER: Order! The Attorney is obviously not interested in the answer. The minister may as well conclude, because even his own colleagues are not listening.

The Hon. J.W. WEATHERILL: Thank you, sir. I will conclude on this point: we have seen in this place the sort of circus that would have emerged if we had tumbled to the Royal Commission that was initially asked for. Our sensible inquiry is achieving real results and real healing for the victims of child sexual abuse.

JUSTICE PORTFOLIO

The Hon. R.G. KERIN (Leader of the Opposition): My question is to the Treasurer. Was the same internal bureaucratic error two years in a row responsible for the Treasurer not tabling documents showing that he underspent in the justice portfolio? Yesterday, the Treasurer told the house that information about the justice portfolio underspend was not provided because the opposition had not asked for it. When he later had to return and apologise for what was an incorrect statement, he blamed it on 'an error somewhere in the bureaucratic structures of government', without specifically stating if or how the identical error occurred two years in a row.

The Hon. K.O. FOLEY (Treasurer): I do not feel any pressure or concern about the issue of underfunding the justice portfolio. I have asked to get that information—

Members interjecting:

The SPEAKER: The opposition asked a question. You would think the opposition would want to hear the answer. The Treasurer will answer the question.

The Hon. K.O. FOLEY: Sir, I have asked for that information to be compiled as quickly as possible. It should have been given to the opposition earlier. I agree with that, and I apologise for it. But I have to say that the care factor on this issue is very low.

STORMWATER MANAGEMENT

Mr CAICA (Colton): My question is to the Minister for Environment and Conservation. Can the minister inform the house what the government is doing to better manage stormwater in metropolitan Adelaide?

The Hon. J.D. HILL (Minister for Environment and Conservation): I thank the member for Colton for his question. I can inform the house that today the Minister for State/Local Government Relations, the President of the LGA and I will be releasing the South Australian Urban Stormwater Management Policy. This policy is possible only because of the great cooperation between local government and state government—and, indeed, great cooperation between local government authorities. The policy establishes a framework for stormwater decisions to be made on a whole of catchment basis. In the past, sadly, local governments have looked after stormwater issues in their own area without taking into account these broader issues. This means that we will make—

An honourable member interjecting:

The Hon. J.D. HILL: We'll get there. This means we will make the right decisions upstream so that we can achieve the most effective results downstream. In the past, the effective management of stormwater has been hindered by uncertainty about the role of various bodies and poor coordination between the authorities. We will now have an integrated approach to stormwater with clearer responsibilities.

The new plan builds on the government's investment in stormwater management. We have already doubled the amount of money that we put into the catchment management subsidy to $4 million, and the government is preparing the Waterproofing Adelaide strategy, which will look at these issues in a broader sense. The next steps will include determination of the best governance arrangements for state and local governments to work together to improve stormwater management in the future.

I can also inform the house that new flood risk maps were released last night by the City of Charles Sturt. These plans provide better information to identify priority areas for upgrading stormwater management infrastructure. This exercise created detailed modelling of both stormwater pipes and overland flow routes along Trimmer Parade, Meakin Terrace and Port Road. With the state government working hand-in-hand with local government we can make the best decisions for the environment and for residents. This is truly a breakthrough decision by local government and the state government. The Minister for State/Local Government Relations and I have been working on this for a very long time, and I am very pleased to say that we have agreement.

DEMERIT POINTS

Mr BROKENSHIRE (Mawson): My question is to the Minister for Transport. Has the Road Safety Advisory Council, which is chaired by Sir Eric Neal, in recent weeks considered the government's proposal to apply double demerit points for certain traffic offences committed on public holidays, long weekends and other nominated times; and, if so, what was its recommendation?

The Hon. P.F. CONLON (Minister for Transport): I would have thought that the—

Mr Williams: Why don't you answer the question?

The Hon. P.F. CONLON: If Mitch Williams, the only unsuccessful Independent in the house, can wait for a moment, I will tell him. I am surprised to be asked this question because, as I understand it, my office briefed the member for Mawson on this very issue some time ago. So, he would know that Sir Eric Neal supports the use of double demerit points. I have not seen the second report from the Road Safety Advisory Council, for which we have asked, but, as I understand it, they are of the view that double demerit points would not work without the use of saturation policing, which is something—

Members interjecting:

The Hon. P.F. CONLON: Breaking news, guys: we put an extra $1.5 million into saturation policing.

Members interjecting:

The Hon. K.O. Foley: More police than ever in history.

The Hon. P.F. CONLON: Yes, more police than ever in history; saturation policing. They had the lowest numbers in history; we have the highest. That is what I understand the view to be. I understand the honourable member was briefed on this, so he probably knows as much as I do about it. He got that briefing, as I understand it, a couple of hours ago. Maybe he has forgotten—

The SPEAKER: Order! The minister is straying from the question.

The Hon. P.F. CONLON: That is what I understand the position to be. I understand that Sir Eric Neal personally has communicated his support for the double demerit points that we are introducing. I can tell members opposite this: we had a terrible Easter weekend road toll, and a very senior police officer said to us that we should have double demerit points. After another terrible long weekend, the same police officer said it again. If you think we are going to sit here and ignore the people who protect our community after two weekends like that, sit there and run the risk of having another bad long weekend in June without paying some heed to their advice, you are talking to the wrong people.

Mr BROKENSHIRE: My supplementary question is based on the fact that the minister just said that Sir Eric Neal personally endorses double demerit points. He then went on to say that he understood there was a written recommendation by the Road Safety Advisory Council. My question therefore is: given the importance of this written recommendation from the Road Safety Advisory Council, as highlighted by the minister, will he table it in the parliament tomorrow?

The Hon. K.O. Foley: Oh, sit down.

Mr Brokenshire: No. It's very important.

Members interjecting:

The SPEAKER: Order! The house will come to order. The member for Mawson is starting to get a bit excited again.

The Hon. P.F. CONLON: Can I indicate to the member for Mawson that we will be introducing a bill to introduce double demerit points tomorrow, and I will provide all the information. We will seek to move that bill through every stage tomorrow, and get it to the upper house so that we can have it in place for the June long weekend. We will provide every piece of information that exists to support the bill.

Mr Brokenshire interjecting:

The SPEAKER: I warn the member for Mawson.

The Hon. P.F. CONLON: We will provide it. But I ask you this: does that mean that you are not supporting it? Does that mean that you are ignoring the police? Do I understand then that you will not support this bill tomorrow? We will provide you with all of the information. At the end of the day you are going to have to have a position yourself.

The Hon. DEAN BROWN: Point of order, Mr Speaker: under standing order 98, ministers cannot debate the issue. Clearly, the minister was simply asked to table a document tomorrow.

The SPEAKER: The member has made the point: the minister was debating. The member for Mawson was also flouting the rules and is very close to being named. The member for Taylor.

KOALAS, KANGAROO ISLAND

The Hon. P.L. WHITE (Taylor): My question is to the Premier. What is the state government doing to resolve the problem of koalas on Kangaroo Island?

The Hon. M.D. RANN (Premier): I certainly hope that I get the support of the member for Finniss, who covers Kangaroo Island in this historic endeavour. Yesterday, with the Minister for the Environment, I announced that this government would provide an extra $4 million over the next four years for sterilising koalas on Kangaroo Island. We believe that this injection of funding is necessary to finally fix the growing problem of koalas on Kangaroo Island. The money will be plunged into a stepped up campaign to sterilise up to 8 000, mostly female, koalas in various environmental hotspots on the island. In these areas, up to 13 000 koalas are eating through precious manna gum plantations and causing significant environmental damage.

Mr BRINDAL: I rise on a point of order. Sir, you pointed out before that nobody on either side was listening to the answer. I put to you the point of order: tedious repetition. We have heard this ad nauseam over the last three weeks.

The SPEAKER: It is not a point of order. The Premier.

The Hon. M.D. RANN: The government has advised that this intensive sterilisation program will prevent an environmental crisis on the island, and it will prevent the island's natural heritage from being lost. I saw some of the environmentalists who are criticising this approach, and they emerged both last night and today to tell us that this will not work. I am not quite sure, but they did not come up with any scenario, apart from the worst one on how to fix the problem. The Democrats say that they want to cull the koalas. Cull is just—

Ms Chapman interjecting:

The Hon. M.D. RANN: Do you want to shoot them? Cull is just a nice way of saying 'kill'. The Democrats apparently want a mass shooting of koalas, with groups of hunters blowing koalas out of the trees. The Democrat leader apparently calls this approach humane. I call it cruel, unnecessary and just plain barbaric, and I think that the majority of South Australians agree. It is just extraordinary. Can you imagine the devastation to our tourism push for Kangaroo Island, for South Australia and for our nation when the front pages around the world feature what the Democrats want, which is a killing of the koalas on Kangaroo Island. It would be devastating.

Of course, the other option is to do absolutely nothing, which would also be cruel because they would starve to death as well and as, of course, doing massive damage to the environment. Imagine the image for our tourists, for the 150 000 visitors, many from overseas, who flock to the island every year to see its natural treasures. These people contribute to an industry worth, as the Deputy Leader of the Opposition knows, $55 million and 650 jobs to Kangaroo Island. The koalas would not be the only thing dead if a cull was held. Tourism would also die. The Democrats would not only be known as the koala killers but the party that killed one of the island's biggest industries—tourism. Other critics—

The Hon. DEAN BROWN: On a point of order: Mr Speaker, this is not the answer to the question. This is a debate of a whole range of other issues about this issue. If the Premier wants to make a ministerial statement, that is fine, but this is a debate in question time.

The SPEAKER: Order! The Premier is starting to debate the issue.

The Hon. M.D. RANN: I am trying to defend the honourable member's island, I would have thought he would be right behind me. Other critics include the member for Davenport, I am told. He was quoted in *The Advertiser* today calling the government's sterilisation approach 'piecemeal' and saying that he doubted it would reduce koala numbers. I remind the member, in case he has forgotten, that it was his government that introduced the sterilisation program in 1996, putting just $330 000 into the program that year. With the former Liberal government the sterilisation program was doomed to fail, but the Democrats—after years of taking aim at the best leader they ever had—are now out there taking pot shots at Blinky Bill.

When the Liberal's program was in operation koala numbers exploded, leading to the crisis we are now facing, and that is why we are a lot braver than our predecessors. I want the deputy leader to support us, to help us save the koalas and help us save Kangaroo Island, because we are determined to solve this growing crisis.

The Hon. I.F. EVANS (Davenport): I have a supplementary question.

Members interjecting:

The SPEAKER: Order! The member for Davenport will resume his seat. The Attorney is out of order, the Treasurer is out of order and the member for West Torrens is out of order. Perhaps the standing orders might need to look at culling closer to home!

The Hon. I.F. EVANS: Culling or sterilising, Mr Speaker. My question is to the Premier. Will he make public the independent scientific advice to the government that the culling program, as proposed, will actually reduce koala numbers?

The Hon. M.D. RANN: I am going to give you—

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: I am going to ask the Minister for Environment and Conservation to have a cosy sit down with you so that you can actually go through why this will make a difference. As you know, someone had to have the guts to do this because—

The Hon. I.F. Evans interjecting:

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

The Hon. M.D. RANN: My memory is pretty good, and I remember that back in 1996 when the former minister for the environment, David Wotton (who I think is a great man), canvassed the options he got clobbered internationally. It was like, 'Go ahead, make my day' when you see a koala; it was like hand-to-hand combat, and he had to back down. Instead of talking about it, we are prepared to actually act on it.

Members interjecting:

The SPEAKER: Order! Members are getting very excited today; I am not sure why.

STATE TRANSPORT PLAN

The Hon. R.G. KERIN (Leader of the Opposition): My question, while he is warmed up, is to the Premier. Why, after three years and three transport ministers, is the state still awaiting the promised state transport plan and when will it be released?

The Hon. P.F. CONLON (Minister for Transport): Funnily enough, I was in here just a little while ago and I am sure it was Rob Kerin—or it was some of those people—asking, 'Why all the plans? Why don't you do something?' So we changed the order around, introduced the infrastructure plan and put $200 million worth of new roadworks in it. I do not apologise for putting the projects out as a priority—not the plan, but getting the projects out.

I will be doing something that those opposite did not do for eight and a half years; I will be meeting the Victorian transport minister (Hon. Peter Batchelor) to talk about a comprehensive master plan for the South-East transport and freight requirements. We will give them their plan in due course, but I can tell them that it is going to be a magnificent underpass and a magnificent tunnel that moves freight faster on South Road—not a plan, but those projects. They will move people and freight faster. That is our priority.

Members interjecting:

The SPEAKER: When the house comes to order, we will continue.

DIABETES SUFFERERS

Ms CICCARELLO (Norwood): What is the Minister for Health doing to address the increasing number of people with diabetes, particularly those whose diabetes have significant complications?

The Hon. L. STEVENS (Minister for Health): I thank the member for Norwood for her question. Diabetes is a major chronic disease in our community, and one that is projected to be on the increase. It is estimated that by 2010 there will be more than one million people with diabetes across Australia. In South Australia we have been tackling type two diabetes by promoting healthy lifestyles through a range of campaigns such as the 'Go for 2 & 5' campaign promoting the eating of at least two portions of fruit and five portions of vegetables each day, and the 'beactive' program which promotes an increase in physical activity. A healthy diet and an active lifestyle can help prevent obesity, a contributing factor to type two diabetes.

People with type one diabetes often have more complex and multiple health issues, and for them the new Royal Adelaide Hospital Diabetes Centre offers specialised treatments. This facility is the final part of the $78 million stage two and three redevelopment of the Royal Adelaide Hospital. It is a substantial upgrade of the previous facility and it provides a $1.1 million state of the art centre for the care of people with complex diabetes. The patients who attend the centre often need care from a range of clinicians who have specialised skills in diabetes management. Specialised protocols have also been developed by the centre for the management of patients with diabetes admitted to the Royal Adelaide Hospital for other conditions such as heart attack, cardiac bypass surgery, or vascular surgery.

Without these protocols people with diabetes, but admitted to hospital with other illnesses, would usually have a longer length of stay. This government is also committed to increasing community-based services to manage diabetes. We are currently rolling out primary health care networks across Adelaide with funding in excess of $3 million. These networks will enable a coordinated approach to the management of chronic diseases such as diabetes in partnership with general practitioners. The networks will also help to promote preventative messages about diet and exercise to help the people of this state be as healthy as they can be.

TRAMS, KING WILLIAM STREET

Mr BROKENSHIRE (Mawson): My question is to the Minister for Transport. Will the government's planned tram extension in the portion of King William Street between Victoria Square and North Terrace remove one lane each way for the use of other traffic?

The Hon. P.F. CONLON (Minister for Transport): I will get the member a full briefing.

Members interjecting:

The SPEAKER: Order!

The Hon. P.F. CONLON: I actually do know. You are going to have to widen that thing to put trams on it. We don't apologise for that. We support the tram. So does that member for Morphett. In fact, he says it has to go further. Yes, it will take up more room on the road; but it is popular; and yes, we support it.

Mr Brokenshire: And who planned it, Reg Varney from *On the Buses*?

Members interjecting:

The Hon. P.F. CONLON: You can't help him.

Members interjecting:

The Hon. P.F. CONLON: Yes, and it will take up some of the existing road.

Members interjecting:

The SPEAKER: Order! The house will come to order!

Members interjecting:

The Hon. P.F. CONLON: Do you oppose it now?

The SPEAKER: The minister will come to order!

Members interjecting:

The SPEAKER: Order! Minister for Transport, did you wish to answer the question?

The Hon. P.F. CONLON: Can I assure them that it will take up more space in King William Street. That is what it will do, but the tram will take some traffic off the road too. We support that. We like trams. Duncan McFetridge likes trams. The member for Mawson does not like trams. But what I would like to know just at some point: does the opposition support extending the tram? Is the member for Morphett a lone voice? What is it?

The SPEAKER: Order! That is a question, not an answer.

The Hon. P.F. CONLON: What will the candidate for Adelaide be campaigning on? What are you going to do?

Members interjecting:

The SPEAKER: Order! The role of the minister is to answer the question, not to ask the question.

MITSUBISHI MOTORS

Ms THOMPSON (Reynell): My question is to the Minister for Administrative Services. What is the government doing to meet its commitment to purchase additional Mitsubishi vehicles?

The Hon. M.J. WRIGHT (Minister for Administrative Services): I thank the honourable member for her question; I know she is a big supporter of Mitsubishi. The government is committed to supporting jobs for South Australians and supporting South Australian businesses. Members will recall that on 29 January this year the Premier announced that the government would purchase an additional 200 locally manufactured Mitsubishi vehicles as part of this financial year's vehicle replacement program. I am pleased to advise the house that this commitment has been met. In fact, by 19 May the government had placed orders for an additional 279 locally manufactured Mitsubishi vehicles. I am advised that 200 of these vehicles are scheduled for delivery this financial year, with the rest to follow later in the year. This expenditure represents a commitment of over $5 million to Mitsubishi Motors Australia Limited, which, of course, is also a commitment to local employment and the local community.

These purchases to date have taken Mitsubishi vehicles to 24 per cent of the government's six and eight cylinder passenger vehicle purchases. In comparison, I am advised that for the calendar year to date the Mitsubishi Magna comprised only 8.5 per cent of national large passenger vehicle sales. This again demonstrates the government's support for Mitsubishi and helps to ensure the ongoing viability of Mitsubishi vehicles and the visibility of them on the road.

PUBLIC TRANSPORT, BUSES

Mr BROKENSHIRE (Mawson): My question is to the Minister for Transport. How is the government's plan to run fewer buses along King William Street consistent with the target of the State Strategic Plan to double the use of public transport; and down which streets does the government intend channelling those buses removed from King William Street?

The Hon. P.F. CONLON (Minister for Transport): I assure the member for Mawson of the fact—which has escaped him—that the tram is a form of public transport. I explain to the member for Mawson that international studies suggest that people are five times more likely to catch a tram than a bus. I would think that replacing some buses with trams on King William Street is likely to get more people onto public transport because it is more attractive. I also assure the member for Mawson that King William Street is not the only street on which buses run in South Australia.

One of the things which we have done and which we have written into the contracts—a very innovative thing done by the former minister for transport—requires the contractors to increase patronage. It is a very good idea. In terms of alternative routes in the city, I tell the member for Mawson what I have told him before; that is, we will be talking to the Adelaide City Council about that. We will be consulting the Adelaide City Council about a lot of things in relation to this issue. I indicate to the honourable member that the Adelaide City Council has been extremely supportive of the extension of tramlines. It sought more. I suggest that the candidate for Adelaide—the fellow who could not win his own preselection and has wandered off to win someone else's—would be very unwise to follow the honourable member's line of reasoning and oppose these trams, because they are supported by the Adelaide City Council and they are very popular with South Australians. I assure the honourable member that making public transport more attractive by the extension of trams fits entirely with the strategy of getting more people onto public transport.

Mr BROKENSHIRE: I have a supplementary question.

The SPEAKER: The opposition has asked its three supplementary questions.

Mr BROKENSHIRE: Sir, this is a very important supplementary question.

The SPEAKER: One would hope they all are important.

Mr BROKENSHIRE: Thank you very much, sir. Will the minister advise the house what year the State Strategic Plan has identified to double its target of use of public transport?

The Hon. P.F. CONLON: We will get a copy of the State Strategic Plan for the honourable member.

The SPEAKER: Some people have not read the standing orders, either. The member for Napier.

EDUCATION, NORTHERN AREA INITIATIVES

Mr O'BRIEN (Napier): My question is directed to the Minister for Education and Children's Services. What new initiatives are being introduced in the northern metropolitan area to assist young people, who are at risk of leaving school early, to stay connected with education?

The Hon. J.D. LOMAX-SMITH (Minister for Education and Children's Services): As we all know, the member for Napier is highly committed to good outcomes for young South Australians and has worked particularly hard in his electorate to connect young people with employment opportunities and pathways into training. I recently launched one of our latest groups of ICANs (Innovative Community Action Networks) in the northern suburbs, the first group of these networks that have been launched in this area. It takes part of our $28.4 million school retention strategy and is funded with a $300 000 a year contribution from the state government.

It is not just about the dollars from the government, of course: it is a very collaborative and cooperative system that works with the community with cooperation with business and local government. I particularly give credit to Salisbury, Playford and Gawler local councils, each of which has been very actively involved in supporting these projects. The umbrella of ICAN is particularly effective because it involves

young people looking at the problems they face, identifying the issues in their lives and helping to develop the programs that will be used to engage them. As we know, if young people drop out of school, out of work and out of training they are more likely to be underemployed, more likely to be involved with the juvenile justice system and more likely to have mental health disease and poor housing, so it is imperative that we intervene, and this program, developed by the Social Inclusion Unit, is one of the strategies that we have employed.

People in the community who are at risk have difficulties in transition from primary to secondary school. Some of them have low literacy and numeracy levels, and that is particularly being approached with our new literacy strategy, which attacks the problem at an early age, in kindergarten, reception and year 1 and 2. These people also include groups of indigenous young people, and young women who are pregnant or caring for young children. The six new programs we have developed with this community are as follows:

- Stepping into Learning, which involves the Elizabeth City Centre and Service to Youth with a program tailored towards career planning and attendance plans.
- Young Mums on the Move, which is based at Para West, supported by Second Story and the Lyell McEwin Health Service, which encourages young women who are either pregnant or have babies to maintain links with learning, because we know that, unless they maintain their links, they will always struggle to look after their children. Particularly we know that those people are the young people who will be supporting their children during their future lives.
- One:One involves the Carclew Youth Arts Centre as well as the City of Playford and Anglicare, and is particularly useful as it engages young children in the Smithfield area in arts-linked programs.
- Makin' it Peachy is one of the strategies in the Peachey Road, which involves not only Carclew Arts Centre but Anglicare, Regency TAFE and the schools in Smithfield, Craigmore and Para West. This again is an innovative curriculum program that involves schoolchildren who are at risk of early leaving.

In addition, we have a program for year 8 indigenous students, who get personalised plans for their education and learning and samples of what it would be like to be in TAFE and university, so that they can have some goals in their life and aspire to a better level of education than they might otherwise have sought. Lastly, there is a program at Gawler High School involving Murray Institute, Gawler youth services, local business, SAPOL and Job Network members that is particularly strong in the hospitality area, an area where the Gawler region offers job opportunities and where there are opportunities for young people to have pathways.

The ICAN program is a new program, an initiative of this government, because we are focused on good outcomes for all children as well as those at risk of dropping out of school, work and training.

YELLABINNA REGIONAL RESERVE

Mr HANNA (Mitchell): Does the Minister for Environment and Conservation approve of PIRSA's disregard of his advice to include key environmental management and rehabilitation processes as licence conditions when issuing a mining exploration lease in the Yellabinna Regional Reserve? The question refers to a mining exploration lease for the Barton nickel joint venture in the Yellabinna Regional Reserve. On 14 October 2004, before the licence was issued, the Minister for Environment and Conservation stipulated various environmental management and rehabilitation processes for inclusion in the licence conditions. When the mining company was advised of these licence conditions, it objected to three of them. Without any further consultation with the Minister for Environment and Conservation, PIRSA issued the licence to the applicant excluding those three conditions.

The Hon. J.D. HILL (Minister for Environment and Conservation): As members would know, the laws that we have in our state in relation to mining in Crown reserves and national parks are very well established and we have a system in place. We have some national parks and wilderness areas—

Mr Hanna interjecting:

The Hon. J.D. HILL: The member for Mitchell can be offensive if he wants, or he can sit there and wait for the answer to come. We have a system of parks and reserves in South Australia that have very clear rules. In the case of some national parks no mining is allowed, and that is very clear; no mining exploration or mining can occur. In other conservation parks and national parks, if a mining application is put in, the applicant is referred to me and my department gives me advice. I can set conditions in relation to that exploration, and those conditions have to be adhered to.

In relation to the regional reserves—the lower end of the scale, if you like—PIRSA, the mining applicant, has to request information from me. I give that information, but it is under no obligation to follow it. That is the way the law is established. That is the balance that has been in place for a very long time, and that is the balance that has served this state well.

The issue that the Wilderness Society has raised relates to a particular application in relation to a couple of mining applications, I think, in the Yellabinna reserve region. My department, through me, gave advice about what restrictions and conditions ought to be placed on the mining application. The minister for mines made a determination which was different from the advice that I gave. But that is his right. He and I—his department and my department—are looking through this to see whether or not there ought to be any changes in the administrative procedures that are in place, and we will go through that in the appropriate way.

SCHOOLS, COORABIE

Mrs PENFOLD (Flinders): Can the Minister for Education and Children's Services advise the house why a School Pride—

The Hon. K.O. Foley interjecting:

The SPEAKER: Order! The Treasurer is out of order. It is hard for the chair to hear the question.

Mrs PENFOLD: Can the minister advise the house why a School Pride promotional sign recently has been erected at a school that has been closed, under Labor, for the last three years, and will the minister—

Members interjecting:

The SPEAKER: Order! The house will come to order. The member will resume her seat until the house comes to order. There is no point in asking a question if no-one can hear the answer.

Mrs PENFOLD: And will the minister advise the house of the cost to produce and install this sign? On Tuesday last

week I visited the Coorabie school site, which is some 160 kilometres west of Ceduna, and was amazed to see that an expensive triangular School Pride sign recently had been erected in the front yard. This school has been closed for three years, and three families, of which I am aware, have been travelling up to 1 000 kilometres a week to take their children to school in Ceduna.

Members interjecting:

The SPEAKER: Order! The house will come to order first.

The Hon. J.D. LOMAX-SMITH (Minister for Education and Children's Services): I will take that question seriously—although, out of habit, I would check first, because I know that the previous government closed 64 schools during its term, and the only schools that this government closed have been—

The Hon. DEAN BROWN: I have a point of order, Mr Speaker.

Members interjecting:

The SPEAKER: The member will resume his seat until the house comes to order. The Deputy Leader.

The Hon. DEAN BROWN: My point of order is that the minister is clearly debating the answer, and under standing order 98 she is not allowed to do so.

The SPEAKER: The minister has only just started to answer the question.

The Hon. J.D. LOMAX-SMITH: As I understand it, the substance of the question was that this government closed a school. The reality is—

Members interjecting:

The SPEAKER: The minister will resume her seat. The minister can give a commitment to investigate the matter, and we will be happy with that.

The Hon. J.D. LOMAX-SMITH: If, indeed, there is a sign that a school is closed, it is not a school that this government has closed, because it has closed only five schools—at the request of the school councils: they were not forced closures. So the first premise is untrue, because we did not close a school called Coorabie. The schools that have requested to be closed are Alford, OB Flat, Warramboo and Paskeville; and Port Adelaide Primary School amalgamated with Alberton Primary School. However, if a sign has been placed outside a school that the previous government closed during its term in office, we will check it out.

Mrs PENFOLD: Mr Speaker, can I ask the minister, then, how a school can be an open school when it has no students in it?

Members interjecting:

The SPEAKER: Order! The house will come to order. The minister does not have to respond.

HOSPITALS, MODBURY

The Hon. D.C. KOTZ (Newland): My question is to the Premier. Does the Premier agree that patients with serious illnesses should be expected to wait 3½ years to see an orthopaedic specialist at Modbury Hospital before then being placed on the waiting list for surgery? An elderly woman who urgently needs a hip replacement has advised the opposition that Modbury Hospital officials told her that she would have to wait 43 months to see an orthopaedic specialist for an appointment, after which she faced a further wait of two years for surgery. She has been forced to make alternative arrangements. In a different case, a doctor has sent the opposition a copy of a Modbury Hospital letter saying that the wait for his patient to see an orthopaedic specialist also would be 43 months. Last week, a 66 year old constituent contacted me because he had received a letter from the orthopaedic clinic at Modbury Hospital advising him that it would be 44 months before he could make an appointment with an orthopaedic specialist before being placed on the two year waiting list for surgery. My constituent will be 72 years of age before he even gets to see a specialist.

The Hon. L. STEVENS (Minister for Health): The issues in relation to orthopaedic surgery, in particular at Modbury Hospital, are primarily related to the shortage of an orthopaedic surgeon able to do the work there. That is something that I have taken up on a number of occasions with the federal minister, and I suggest that the honourable member does the same.

LYELL McEWIN HEALTH SERVICE

The Hon. DEAN BROWN (Deputy Leader of the Opposition): My question is also to the Minister for Health. Does the minister believe it is acceptable for an elderly woman, whose knee replacement had become seriously infected, to be sent home from the Lyell McEwin Health Service at Elizabeth at 4 o'clock in the morning and told to report to the Queen Elizabeth Hospital at Woodville just five hours later? The opposition has been given details of an elderly Craigmore woman who had a knee replacement on 10 May and was discharged on 13 May. At 8 o'clock last Friday night (20 May) she attended the accident and emergency department of the Lyell McEwin hospital after her knee had become infected, very swollen and very painful. After being at the hospital from 8 o'clock on the Friday night until 4 o'clock the next morning, she was discharged from the Lyell McEwin hospital and told to catch a taxi home and report to the Queen Elizabeth Hospital at 9 o'clock the next morning. When she arrived at the Queen Elizabeth Hospital she was assessed and admitted as an inpatient. She is wondering why she had to catch a taxi home in the middle of the night instead of being kept at the Lyell McEwin hospital until 9 a.m. and then sent to the Queen Elizabeth Hospital by ambulance.

The Hon. L. STEVENS (Minister for Health): On—

Members interjecting:

The SPEAKER: Order! The minister will resume her seat. The Minister for Health.

The Hon. L. STEVENS: I am surprised that the deputy leader has taken so long to raise this matter with me as it has been a number of days since he alleges this occurred. On the face of the matter as stated by the deputy leader, I do not think this is acceptable. However, I would like to see the details that the deputy leader has in relation to this matter, and I will certainly look into it as a matter of urgency. If a lack of care has been demonstrated in relation to this person, the matter will be dealt with. However, I remind the house that the deputy leader has made numerous allegations which have proven to be false.

The Hon. DEAN BROWN: My question is again to the Minister for Health. Why is there a shortage of beds at the newly developed Lyell McEwin hospital, which yesterday forced the cancellation of six or seven prostate operations for patients who had been waiting in the hospital for two or three hours? These patients included an 84-year-old man. Relatives of this man contacted me yesterday afternoon because he, together with a number of other patients, had been waiting at

the Lyell McEwin hospital for a prostate procedure. After waiting for two or three hours, a nurse announced that there were no beds at the hospital and that they would all have to go home. So, these six or seven patients got up and walked out. One of them was a very angry young man who said that this was the second time it had happened to him.

The Hon. L. STEVENS: As the deputy leader would know—

Members interjecting:

The Hon. DEAN BROWN: Sir, I would like to be able to answer the question.

The Hon. W.A. Matthew interjecting:

The SPEAKER: Order! The member for Bright is meant to be listening to the answer.

The Hon. K.O. Foley interjecting:

The SPEAKER: Order! The Treasurer is out of order. The Minister for Health is trying to answer the question.

The Hon. L. STEVENS: Each year that this government has been in office the amount of elective surgery undertaken and completed has increased year upon year in contrast with a decrease year upon year under the previous government.

Mr WILLIAMS: On a point of order, sir, this sounds a lot like debate to me. It is not an answer to the question.

Members interjecting:

The SPEAKER: Order! The minister just needs to answer the question.

The Hon. L. STEVENS: Point one is that elective surgery procedures in South Australia's metropolitan public hospitals have increased year on year. As well as that, hospital initiated patient cancellations have decreased. In relation to the specific matters that the Deputy Leader has raised, again I will look into the issues. But let me just broadly say that in public hospitals people are scheduled for elective surgery, but if occasions arise where more emergency patients (people coming through the emergency departments) are serious enough to be admitted, they will be if it is deemed that they are more serious and need those beds. In those cases and under those situations, previously scheduled elective surgery may be postponed. However, I would like to reiterate that there has been more surgery during each year of this government, and hospital initiated patient cancellations are down. That being said, I will be pleased to receive details from the Deputy Leader, and I will look into the matters.

BIRTHS, DEATHS AND MARRIAGES REGISTRATION OFFICE

Mrs GERAGHTY (Torrens): Can the Attorney-General inform the house why the Births, Deaths and Marriage office restricts access to people's birth certificates?

Mr Venning interjecting:

The SPEAKER: Order, the member for Schubert!

The Hon. M.J. ATKINSON (Attorney-General): In recent months approaches have been made to the Registrar of Births, Deaths and Marriages in which an applicant seeks access to records that are not his or her own. As well as providing proof of age, the birth certificate has grown to be accepted as the primary identity document in Australia. As a result of its sensitivity and importance, it is essential that it be protected as far as possible from abuse. Many agencies such as banks, the Australian Passport Office and some underage sporting groups require the production of a birth certificate by an applicant for various services, or to allow access to activities subject to age limits. The simplest type of offence based on misuse of identity documents is where a person pretends to be someone else, pretends to have children or obtains benefits to which they are not entitled. There is a growing rate of complicated commercial frauds where offenders have created several identities, opened bank accounts under different names and obtained large sums of money by setting up business entities that then engage in fraudulent transactions.

According to some sources, the Australia-wide losses incurred by CentreLink, banks and other businesses and government agencies as a result of both false claims and commercial offences based on identity fraud would now total as much as $4 000 million annually. Identity fraud can also be perpetrated by persons who obtain many birth certificates that are genuine but are obtained by theft or deception. These are often in the names of deceased people. An offender may steal or misuse a bona fide certificate belonging to another person, or may apply through the usual processes for copies of birth certificates for other people.

Although strategies are in place in this and other states to ensure that forgery and falsification of birth certificates is minimal, there are still times where persons obtain or create falsified or forged documents. Although the rate of detected offences has been low in South Australia, modern scanning equipment and colour printers have resulted in an increase in offences in other states.

South Australian birth certificates include a range of special features aimed at minimising forgeries, and I am pleased to advise the house that the dedicated staff of the Births, Deaths and Marriages Office is trying to minimise instances of wrongful access to birth and death certificates.

GRIEVANCE DEBATE

APPRENTICESHIPS

Mr SCALZI (Hartley): Today I would again like to talk about apprentices travelling interstate to get part of their education, and I would also like to commend the federal government on its budget. The 2005-06 budget provides a record $89.6 billion over the next four years for the education, science and training portfolio, with funding in 2005-06 of a total of more than $20.9 billion—an increase of $2.4 billion over the amount available in the previous year. This is certainly a commitment by the federal government in dealing with skills shortages and in supporting the education, science and training portfolio.

Members interjecting:

The SPEAKER: Order! The house is very disorderly. I ask the Attorney, the Minister for Agriculture, Food and Fisheries and the Opposition Whip to please take their seats and show the member for Hartley the courtesy to which he is entitled.

Mr SCALZI: Further to my representation in this place on behalf of locksmith apprentices travelling interstate for training regarding lack of support and duty of care, I would like briefly to share with the house a response that has come to me from another apprentice who read of the issue in the press and who is in the middle of his four blocks of training in Melbourne. Incidentally, I would like to point out that such difficulties are not restricted to locksmiths but are faced by

many apprentices and trainees who are obliged to travel interstate for training that is not available in South Australia, and I am sure that the costs he quotes would be no lower in Sydney or Brisbane.

The young man to whom I refer has written about the inadequacy of current allowances, and particularly about the fact that even the modest amounts available are paid by way of reimbursement. After the two week block of training the apprentice returns his claim to DFEEST where, he states, it can take a further two to four weeks for the money to be paid. Obviously, the total costs of the training visit have to be paid out and carried by the apprentice during this time—a hard ask on an apprentice's wages, which are not very high. He writes:

> The accommodation recommended by the TAFE lecturers charges $300.00 per fortnight. This means the allowance given to SA apprentices is all used, as well as money out of our own pockets. The accommodation at this house is of low standard with the premises being broken into and possessions being stolen, as well as the house being poorly maintained with knee-high grass and run-down grounds. . . This forces apprentices to look for better kept and equipped accommodation, which means costs can rise up to above $550.00 per person.
>
> The next cost to an apprentice. . . is food with an average. . . $130.00 minimum each. Finally there is the cost of transport. . . Public transport. . . adds up to about $50.00 for the fortnight. . . Private car. . . adds up to $70.00 per fortnight. . . .Most of the costs have to be paid by our own wages and that is hard with the low wages we earn as apprentices. This is quite appalling compared to other states in Australia. . . The Tasmanian government provides their apprentices. . . $650.00. . . plus their plane flights paid for in full. These payments are made before the apprentices leave. . . so they have the money needed for their expenses. . .

I note that Tasmania's OPCET (Office of Post-Compulsory Education and Training) states that their 'allowances are designed to be a significant contribution towards the cost of travel and accommodation'. In South Australia the design appears to have more to do with shifting costs onto the apprentices and their families. I believe this is a serious issue and, if we want to keep young people in South Australia, then surely we have to address this.

I would also like to commend Business SA for organising an evening on Wednesday 11 May to work out how we can deal with the problem of training for locksmiths. The meeting was convened by Tarnya Cruickshank, Education and Training Adviser, Business SA, as a result of a prior meeting held on 23 February 2005. I would like to thank all those people involved, and hopefully we will find a solution to dealing with apprentices travelling interstate.

LIBERAL PARTY MARGINAL SEATS

Mr KOUTSANTONIS (West Torrens): I attended church as a long suffering, repentant young man, and as we were leaving everyone was saying, 'Did you see *The Sunday Mail*?' and they all told me that there was a really big story on Rob Kerin and the Liberal Party. I thought, 'That is not where my prayers were; my prayers were for other things.' I rushed to the local deli, bought *The Sunday Mail*, and rushed home to have a look at it. I was shocked because I knew that some members of the opposition were stupid, but I did not think that they would confirm it and put it in writing. Apparently some genius opposite has decided to write a list of all his colleagues that he thinks will lose at the election unless they act quickly because they are paralysed. There is nothing wrong with self-evaluation as long as you use the right figures. *The Sunday Mail* was supplied with a list of seats that the Liberal Party thinks is going to—

Mr BRINDAL: On a point of order, sir: I know that the subject of grievances can be wide ranging but I am checking with you that this form of grievance is allowable, because I believe that it is an artifice that will be used by the opposition if you rule that what is being said by the member is allowable.

Mr Koutsantonis interjecting:

Mr BRINDAL: Fine, you set the rules, you play by the rules, thank you.

The SPEAKER: I do not believe that the member for West Torrens has breached any standing orders.

Mr Brindal interjecting:

The SPEAKER: Order! Grievance allows members to range over a wide area.

Mr KOUTSANTONIS: I will get to the carpetbagger in a minute. It is always good to do a bit of self-evaluation and look inwards. The Labor Party often in the past has looked inwards, but the important thing is to get it right. The general, who did the self-evaluation, claims that the member for Hartley is on a margin of 1.4 per cent. Perhaps he could look at the South Australian Electoral Commission web site and get his figures right. According to the Liberal Party's internal documents, it claims that the member for Hartley is on a percentage of 1.4 per cent to lose—wrong; it is actually 2 per cent.

The member for Waite also claims that the member for Stuart is on a margin of 1.4 per cent—wrong; it is 2.2 per cent. He claims that the member for Light is on a margin of 2.9 per cent—wrong; it is 2.5 per cent. The member for Waite thinks that the member for Kavel is on a margin of 3 per cent—if only he were—unfortunately for the Labor Party, and his long suffering constituents, it is 12.7 per cent. The member for Waite claims that the member for Mawson is on a margin of 3.6 per cent—wrong; it is 3.4 per cent. The member for Waite claims that the member for Heysen is on a margin of 4.1 per cent when she is on a margin of 9.8 per cent. The member for Waite has the member for Morialta—one of our target seats—on a margin of 4.2 per cent when she is actually on a margin of 3.5 per cent.

Mr MEIER: On a point of order, sir: whilst the honourable member opposite has correctly identified that *The Sunday Mail* has it wrong on five occasions, I feel that it would be more appropriate, rather than bringing it up in this house, that he has a chat to *The Sunday Mail* journalist concerned.

The SPEAKER: That is not a point of order.

Mr KOUTSANTONIS: Thank you, Mr Speaker, I know that the opposition does not like hearing how incompetent it is. The Liberal Party claims that the member for Bright is on a margin of 5.1 per cent when it is actually 4.5 per cent. Then there is Newland, which it did not include in the target seats—just to get it right, it is 5.4 per cent. The retiring member, who is cutting and running because he has given up on fighting for his constituents—

Mr Meier interjecting:

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

Mr KOUTSANTONIS: —did not get a mention in the leadership, although some members did. The member for Schubert got a big mention. He was going to organise a leadership spill, but it lasted about 20 seconds because, I understand, the candidate he wanted to run would not run. Then they interviewed the member for Bragg, and the article states:

> It's nothing we didn't already know,' she said. 'But people have to understand we've got Kerin until March 18—if we win, good luck,

if we lose it's open slather—

It's warfare. The article continues:

I keep telling them politics is about holding your nerve and sticking to the line.

Now, the member for Unley could not hold his nerve and cut and run to the seat of Adelaide because, like a relative they do not like, they keep on throwing him out of the house—

Mr BRINDAL: I rise on a point of order, sir. It is wrong and invites quarrel when members criticise other members, other than by substantive motion. I call on the member for West Torrens either to apologise or withdraw, or put his accusations in a substantive motion.

The SPEAKER: Order! Parliament is a place where members can criticise other members. However, they are not allowed to allege improper behaviour or motive. I do not believe that the member for West Torrens did that.

Mr KOUTSANTONIS: No, sir; all I claimed—

Mr BRINDAL: I take offence and ask that he apologise and withdraw; and I will continue to claim offence until you throw me out, unless he apologises and withdraws. It is not allowable in this place.

The SPEAKER: Order! A member can criticise another member.

Mr BRINDAL: I object to what he said.

The SPEAKER: Well, all members can object to whatever is said in here. You cannot require someone to—

Mr BRINDAL: Mr Speaker, there is a standing order which provides that, if a member objects, the Speaker asks the member to withdraw. It is under the standing orders. If you want, I will find it for you, but you are the Speaker and you are supposed to know.

The SPEAKER: Order! The member for Unley is getting quite carried away. What is the remark by which the member is offended?

Mr BRINDAL: That I somehow deserted my electorate and am running away from Unley. I take grave offence to that.

The SPEAKER: I believe the member for West Torrens used the words 'cut and run'. If the member for West Torrens wishes to apologise, that is up to him. However, I cannot make him apologise. The member for Kavel.

BRUKUNGA CFS

Mr GOLDSWORTHY (Kavel): It is interesting that the member for West Torrens gets all hot and bothered about an article in the paper. The care factor for that article on this side of the chamber is zero.

Mr Koutsantonis interjecting:

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

Mr GOLDSWORTHY: As we all know, it is a matter of 'Today's headline, tomorrow's fish and chips wrapper'. That is exactly what it is. It has been dealt with and it is a non-issue. The member for West Torrens comes in here, arguably, wasting the house's time. But that is not what I will spend my 4½ minutes of grievance on.

I want to highlight some excellent events that have been held in my electorate over the past week or so. First, on Sunday I attended celebrations for the 50th anniversary of the Brukunga CFS brigade. Brukunga is a smaller community out to the east of the Mount Lofty Ranges. It is a very good tight-knit community and it has had a CFS brigade for the past 50 years. It was a great event and a great celebration for the town, the local community and the CFS. A number of distinguished guests attended, including the Minister for Emergency Services (Hon. Carmel Zollo from the other place), the Mayor of the District Council of Mount Barker (Tony Wales), the Chief Officer of the CFS (Euan Ferguson) and a number of other invited guests and senior officers from the CFS administration. It was a tremendous celebration, and I pay tribute to all the brigade members, in particular the President of the brigade, Mr Mark West, and the Captain, Mrs Mim Goodwin. We had some formalities.

Certificates and service awards were presented, there was a cake cutting and a number of speeches, and then we had a very nice barbecue lunch to finish off the afternoon. We also had a drive in their newly delivered Isuzu 3:4 unit, which I have learnt over my time as local member is a fire truck that has the capacity to carry 3 000 litres of water and is a four-wheel drive vehicle. The chief officer (Euan Ferguson) drove it, the minister (Hon. Carmel Zollo) was in the front and one of the regional CFS officers and I were in the back, and we went for a bit of a run around the district, which was quite enjoyable.

Notwithstanding that, I want to highlight the fact that the CFS has done and continues to do an outstanding job in its protection of the community, particularly in the Adelaide Hills. There is currently quite a bad fire in the northern part of the Hills around the Cudlee Creek area. I understand that there was some cold burning in one of the parks, although I want to confirm this with the minister today when I get to speak to her about it. It got away from the personnel who were managing the burn-off and obviously was still burning during the night. On the way to my office this morning I could see it coming up over the hills approaching the township of Lobethal.

Whilst in my office, I noted at least half a dozen CFS fire trucks go past, including some from Meadows, Hahndorf and Brukunga, so it is obviously quite a serious incident with many units attending. When I get an opportunity this afternoon I will talk to the minister to get an update on the situation, but it does highlight the fact that the season is continuing to be very dry and having a significant effect on agricultural pursuits in this state. We are certainly looking for decent rain to commence and to continue through the growing period for our winter cropping.

Time expired.

CHILDREN, UNSAFE PRODUCTS

Mr RAU (Enfield): Without in any way further upsetting the member for Unley, many friends of mine who live in the electorate of Unley—and who are not all, I might say, Labor voters—have been ringing me lately saying how disappointed they are to see that the member for Unley will not be continuing as their local member. They consider it something of a tragedy, because they regard him as a man of depth, of experience, and a person who is able to get up here and deliver a Shakespearean sort of contribution virtually at the drop of a hat. They are very sad to see him going and very apprehensive that he will be replaced by someone who is not really able to fill his very large shoes. They do ring me and they are agitated.

They know that I am not in his party and cannot help, even though I would like to. They do not know who to call because, obviously, the Liberal Party has not listened to them and they are very upset. I just thought I would say that, because I know that the member for Unley got a bit agitated

before and I want him to know that he is loved and he will be greatly missed in Unley. And I do wish him well in his retirement.

I have a very concerning issue relating to children in my electorate. That issue is that unsafe products are being sold in supermarkets and shopping centres in my electorate from vending machines deliberately designed to attract children. These vending machines can probably not be operated effectively by very small children but, as a person who has a number of these people at home, a small child who can operate one generally has a brother or sister who might be a bit smaller and perhaps one who is even smaller again. The situation has been brought to my attention by a constituent.

I am not going to use this prop that I am holding; I am going to describe it. They are a sort of a plastic globe that comes in halves, and inside it there is a small figurine about an inch or so in height (in the old money), with a head about the size of a chickpea. The head is held onto the rest of this figurine by a small steel spring, which is about half an inch in length.

The constituent who brought this to me was given it by a child who got it out of one of these vending machines. He showed it to me and explained that when the child pulled the thing out the head came straight off, which meant that there were three serious choke hazards coming out of this one so-called toy, which is deliberately designed to be purchased by and alluring to children. I am very concerned that these things are probably being imported for next to nothing from places to the north of here and put in these vending machines all over the city of Adelaide—and God knows what other material like this is out there all the time presenting a threat and a hazard to children.

Whilst it is very important for the parliament to look at some of these issues about child abuse that are taking place at the minute (and they are very important), there are also things as simple as this occurring in our shopping centres every day. I raised this with the Commissioner for Consumer Affairs yesterday, and he was very interested in this matter. I would like to say, through the parliament, to any of those members of the public who take any notice of what is said in here that, if they come across these types of things in their travels, particularly where they are obviously designed to be attractive to children, they should notify OCBA immediately. The fact is that, if any of these toys is small enough to fit in a film canister without difficulty, they are too small and they are a choke hazard. Anyone who is familiar with children's toys would realise that these things are normally labelled very carefully—Lego and all these sorts of things—and they state 'Not suitable for children under three years of age', five years of age, or whatever the case might be. These items are out there causing trouble now, and something seriously needs to be done about it. If people find them, I ask them to please get in touch with OCBA and get it onto the game, and let us stop these dangerous things being placed in my electorate and in other people's electorates.

Mr Brokenshire: Let's have a delegation to the minister.

Mr RAU: People ask, 'Why don't you speak to the minister?' This came to my attention only the other day, and I am making the plea that everyone out there who finds these things should get in touch with OCBA, because it cannot stop what it does not know about.

SCHOOLS, COORABIE

The Hon. G.M. GUNN (Stuart): Let me say from the outset that we are most appreciative of the member for Enfield's concern and wellbeing for the member for Unley. I am sure that the member for Unley will heed what the honourable member has said as his parliamentary career progresses into the future. The member for Flinders asked a question about little Coorabie school.

The Hon. J.D. Lomax-Smith: It's not true.

The Hon. G.M. GUNN: All I want to say about it is that, having represented that part of the state for a long time, it was a little school that was very near and dear to my heart. It was one of the first schools I had the great pleasure of visiting in 1970 when I became a member—and I was rather appalled at the terrible housing conditions that the teachers had to put up with there and was fortunate enough to persuade the then government to build a new schoolhouse there. I am very interested in that little school, which is not far from Fowlers Bay. I used to have a community meeting there every year.

The other matter I want to raise today is that the government has recently announced and gazetted the membership of the Natural Resources Management Board.

Mr Brokenshire: That will be interesting—

The Hon. G.M. GUNN: It is interesting, and I am taking particular interest in these nominations.

The SPEAKER: If the member for Mawson wants to have a grieve he should seek one and not interject. The member for Stuart has the call.

The Hon. G.M. GUNN: Thank you—and I am easily put off, Mr Speaker.

The SPEAKER: We know that you are very sensitive.

The Hon. G.M. GUNN: I thank you for your protection, sir. I note that the South Australian Arid Lands Natural Resources Management Board will commence operations on 14 April 2005. One of the nominees, who is appointed until April 2008, is one Carol Ireland. I was quite amazed at that. She lives in the Adelaide Hills, I am told, and has nothing to do with the Far North of South Australia. The opposition has grave concerns about the way in which these boards are being set up. They are too big. In the past, water catchment boards basically consisted of local people who had local input and did a very good job. The majority of these people should be people who reside in the area and who will pay the levies; they should not be outside appointees. I think that doing this has not got this board off to a good start, and people are not happy about it.

It is all very well for Mr Wickes to ring and tell people they were not successful, and he well and truly knows what the response was. The response will be pretty aggressive from now on if this is the way they are going to treat people. That is all I want to say at this stage, but the opposition will be saying a bit more about it in the not too distant future.

This government has been very fortunate. For the first time in decades, thanks to the GST, it has very substantial amounts of revenue to provide general services for the people of this state. Whatever anyone says about the GST, whether you like it or not, it has given the states a growth tax, not only for today but also into the future. If the states are to discharge their duties and provide reasonable services which no-one else can provide, they have to have resources and, in my view, the GST taxing arrangement has provided the states with that flexibility.

As part of that deal, Mr Speaker, as you would know, the states were required to get rid of a number of taxes. As from November 1998, the commonwealth was going to get rid of sales tax and bed taxes. The states and territories, as from 1 July 2001, would cease to apply financial institution duties and stamp duties on marketable securities (including private

company trusts and public company trusts where securities are not quoted). As from 2005, the states and territories would cease to apply debit taxes levied on transactions (including credit cards); stamp duty on non-residential conveyances; stamp duty levied on non-marketable securities; stamp duty levied on rents payable under tenancy agreements; stamp duty on mortgages, bonds, debentures and other loan securities; stamp duty on credit arrangements, instalment purchase arrangements and rental arrangements; stamp duty levied on the value of a loan under credit arrangements; stamp duty levied on credit business in respect of loans, discount transactions—

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

The Hon. G.M. GUNN: That is unfortunate. I will finish another day.

WORKSHOP FOR THE YOUTH OF SA

Ms BEDFORD (Florey): I begin today by acknowledging that this parliament meets on Kaurna land and pay my respects to the traditional custodians of the land, the Kaurna people. Today it was my pleasure to co-host, along with the member for Hartley, on behalf of Reconciliation SA, a pre-Reconciliation Week event involving school students from around Adelaide. The title of the event was Workshop for the Youth of SA, and it was chaired by Shirley Peisley and Muriel van der Byl, both important role models for the young indigenous leaders of tomorrow. I acknowledge their many years of service to their communities and admire their dedication and commitment to the struggle to recognise the rights of indigenous people in this state as well as on the national scene. These women have spent many hours of voluntary service encouraging young people, and that service has been recognised by Order of Australia awards.

The discussion today took place in the Old Chamber, such an important place for legislation in this state, as it was where so many of our laws were enacted. Mr Che Cockatoo-Collins, himself an important role model, was involved in a great deal of the facilitation of the discussion, as was Sam Nona, a young man who is working hard with his peers to ensure that they are part of shaping the future. Many MPs and MLCs called through to speak with the young people, and many others sent apologies, which shows the level of interest members have in ensuring that reconciliation remains firmly on the agenda.

I would like to commend Tricia Garnett and Troy-Anthony Baylis of Reconciliation SA for their organisation of the event and Peter Buckskin of DAARE for his assistance. I would also like to thank Penny Kavanagh, the Parliamentary Education Officer, and Jonathan Nicholls, the Secretary of the Aboriginal lands committee, for making time to come into the chamber and tell the students of their work here in the parliament. I would also like to thank Tabitha Lean and Eamon Peisley for being available and helping at the event.

This event was a prelude to a week of exciting activities beginning this Friday with an event to be held at the Drill Hall on the Torrens Parade Ground at 10 a.m. The Hon. Jay Weatherill (Minister for Families and Communities and Acting Minister for Aboriginal Affairs and Reconciliation) will open the week's activities by launching the Register of the Aboriginal Cultural Awareness Providers. The South Australian government is actively encouraging public sector employees to participate in Aboriginal cultural awareness training. These programs can occur in the workplace or, more preferably, in a residential community setting where learning Aboriginal culture takes place in the context of Aboriginal country.

The register of providers has been established to inform state agencies of available suppliers of Aboriginal cultural awareness training programs and to promote their engagement. All principal presenters are Aboriginal and some providers have a non-Aboriginal co-presenter. The register will be updated periodically to ensure that information on providers is current and to provide opportunities for emerging Aboriginal businesses in this product area to be included on the register.

The full list of activities for Reconciliation Week this year can be accessed on the Reconciliation SA web site. I would like to thank the co-chairs of Reconciliation SA, Shirley Peisley and Christine Charles, for their unstinting efforts as well as their board for all the hard work they are putting into reconciliation in South Australia.

Each member here will be aware of activities in their own electorates, and many councils are providing leadership by ensuring accessible and interesting displays of events in our electorates. In the City of Tea Tree Gully there will be some screenings of several recent movies which highlight various aspects of the results of harmful policies. These movies, such as *Tracker* and *Rabbit Proof Fence*, show a very dark side of Aboriginal life in South Australia. A recent talk, hosted by the Hawke Institute in the Adelaide Town Hall, was addressed by the woman who wrote *Rabbit Proof Fence*. Everyone in the room was riveted by her recollections of her time in the Far North and in Western Australia where her children were taken from her. We are all aware of the harm that removal of children does to the indigenous culture and how important it is for those hurts to be acknowledged so that the healing process can continue.

At many of the activities around South Australia and Adelaide an Aboriginal welcome is part of the proceedings. This is done to help people to understand how important it is to acknowledge the custodians of the land. I know that many of our indigenous elders, particularly Auntie Josie Agius and Uncle Lewis O'Brien will be involved in many of the activities this week. I hope they will be welcomed and made to feel part of the activities, not just for the first five minutes but for the whole of the activity. I know there will be much indigenous culture and dancing for us all to see.

Time expired.

SCHOOLS, COORABIE

The Hon. J.D. LOMAX-SMITH (Minister for Education and Children's Services): I seek leave to make a ministerial statement.

Leave granted.

The Hon. J.D. LOMAX-SMITH: The member for Flinders wrongly suggested during question time that the Labor government had closed Coorabie school. The school has not been closed; it is an annex of the Penong Primary School. A general school pride sign has been erected on the location to identify it as a Department of Education and Children's Services facility.

CHILDREN'S PROTECTION (KEEPING THEM SAFE) AMENDMENT BILL

The Hon. J.W. WEATHERILL (Minister for Families and Communities) obtained leave and introduced a bill for an act to amend the Children's Protection Act 1993; and to make a related amendment to the Family and Community Services Act 1972. Read a first time.

The Hon. J.W. WEATHERILL: 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

Keeping Them Safe, the Government's reform program for child protection, was launched in September 2004, following the Layton review of the child protection system. The reform program is based on a whole of community approach to protecting children. The government believes that keeping children safe from harm is everybody's responsibility.

The vision in Keeping Them Safe is to make sure that all South Australian children:

- Enjoy good physical and mental health in a safe and healthy physical environment
- Get the most out of life, including play, leisure and access to recreation and sport
- Develop skills for adulthood
- Have a strong sense of self and are connected to learning, opportunity and the community
- Can take up their citizenship rights and make a positive contribution; and
- Are not prevented by disadvantage from achieving their full potential.

These outcomes are essential to a positive future for South Australia. If we do not look after our children we limit not only their potential but also the potential of the broader South Australian community.

Like other States, and other countries, the care and protection system in South Australia has been under significant pressure in recent years.

Reports of child abuse or neglect have steadily increased. In part this reflects the difficulties some parents are experiencing as well as community concern for children. However, we now have a far greater understanding of how those who set out to deliberately harm children actively find the means to have contact with children. This ranges from befriending vulnerable children and their parents to gaining employment, or volunteering, in agencies that work with children. Additionally the days are gone when the words of children and adults who come forward with accounts of harm are given little credibility.

We are now in the process of building a new system that is more responsive to vulnerable children and their families.

There are five interconnected reform priorities:

- *Support to children and families*—including recognition of the challenges of responsible and good parenting, and the need to address this in situations where families face considerable pressure, as well as a particular focus on children under Guardianship of the Minister
- *Effective, appropriate intervention*—including intervening early to prevent difficulties from escalating and ensuring that the child protection system can adapt to the needs of particular children
- *Reforming work practices and culture*—including a commitment to a skilled and competent work force and outcome focused organisations
- *Collaborative partnerships*—across government and between and among the non government services and those who represent children's interests in order to build shared understandings about what is best for children and to work together for improved outcomes
- *Improved accountability*—we know that some child abuse is conducted in secrecy and that this will often increase trauma to the child. A closed child protection system will have a similar effect as it creates unnecessary barriers to effective intervention to protect vulnerable children. It is therefore crucial for Government to model openness and transparency through processes for independent scrutiny of the care and protection system and seeking advice from the community about children's rights and interests.

A substantial financial investment of $210 million over 5 years has been committed to this reform program.

To further progress the reform program it is necessary to make a number of changes to the *Children's Protection Act 1993*.

Objects and Principles

The draft Bill provides for fundamental change to our care and protection system. Recognising the importance of a childhood free from harm, the provisions in the Bill reflect a strong commitment to achieving this for South Australian children.

A sound and nurturing relationship between a child and their birth parents helps children to feel that they belong, to know who they are, and to know that they are important. The present Act encourages services to do whatever can be done to strengthen these relationships. This Bill maintains this focus but does not do so in isolation of the other relationships in a child's life. While it is important to encourage strong relationships between a child and their birth parents and birth siblings, important relationships such as those with grandparents and other relatives must be valued.

The Bill takes into account that throughout childhood, a child also spends a significant amount of time in the care of others – for example, a child may spend time in the care of relatives, a kindergarten, a school, a hospital, a sporting club, or a social club. It is the Government's intention to make sure that all the key people in a child's life accept responsibility for supporting that child to help him or her to grow and flourish.

Thus, the Bill moves away from the concept that only certain individuals are responsible for protecting children from harm, whether this occurs at home or elsewhere.

Central to the Government's reforms is the need to move away from prevailing expectations that only one government agency has responsibility for the welfare of children. This has proven to be ineffective. The responsibilities of those working with vulnerable children extend beyond making a report to the Department for Families and Communities. A greater awareness of children's safety and protection needs and acceptance of shared responsibility to meet these needs are vital to developing a more responsive child focused system.

Further, the Objects state the importance of intervening early when children are at risk of harm. At present, the child protection system tends towards a crisis response, and often children do not receive a response until harm has occurred. There is considerable evidence across the western world of the benefits of early intervention strategies in preventing further harm as well as preventing long term damage to the child.

The principles have also been rewritten to reassert that the safety of the child is to be the paramount consideration and that the powers must always be exercised in the best interests of the child. The objectives concerning the importance of family life cannot override the paramount principle.

In order to ensure greater clarity, it is proposed to include as the first principle, "Every child has a right to protection from harm." This principle leaves no doubt as to the first responsibility of the care and protection system.

In addition, consideration must be given to the child's wellbeing to make sure that we interpret risks to safety more broadly, to ensure that we consider those children living in environments that are detrimental to their development but where incidents of actual harm are difficult to identify.

In accordance with the focus on achieving better outcomes for children, and in line with the UN Charter on the Rights of the Child, consideration must now be given to the child's own views, where they are able to form and express them, when determining the child's best interests.

The importance of preserving and enhancing a child's sense of racial, ethnic, religious or cultural identity is given greater priority. This is crucial to building a child's sense of belonging and connection. In addition, specific mention is made of adherence to the Aboriginal Child Placement Principle. This has long been advocated by Aboriginal communities, and is called for in the Layton Review. This compels a particular process for decision making for Aboriginal children who may be removed from their birth families, involving firstly consideration of placement within their family, secondly their kin relationships, thirdly their community, and fourthly within another Aboriginal community. This will ensure that as far as is possible, Aboriginal children are kept connected to their known

environment and culture. Going beyond these four steps should be seen as a last resort.

While we must do what we can to support families, some children's birth families are not sufficiently safe and/or supportive. In these cases, it is intended to emphasise Government's responsibility to do all that is possible to make sure that these children are not left in limbo and preferably have an opportunity to belong to an alternative family. A principle is proposed that gives these children the right to care and protection in a suitable standard of alternative care in keeping with the recommendations of the Layton Review.

These particular principles build on the Government directive made in 2004 that children under the Minister's care receive priority access to Government services. They set in place a framework for ensuring that this particular group of children are given special attention.

Interpretation of Alternative Care

The Bill extends the meaning of alternative care to cover all children in the custody of the Minister for Families and Communities, including those in lawful detention. This recognises that these children too need a special focus and that their care and protection needs are not forgotten or excluded from this Bill.

Interpretation of At Risk

South Australians value children and want to reduce child abuse and neglect in the community. However, there are many challenges in determining how best to prevent abuse and neglect and assist the recovery of those children who have been harmed. It is widely acknowledged that the present definition of "at risk" is too narrow.

In amendments to section 6(2) of the *Children's Protection Act 1993*, the Government has accepted the advice from the Layton Review that the assessment of risk should give greater consideration to a child's development, the importance of anticipating future harm, and the need to take a broader assessment approach of the protective capacity of parents and their ability to meet the child's needs.

It is therefore proposed to broaden the definition of "at risk" so that, for the purposes of the Act, a child is at risk if "there is a significant risk that the child will suffer serious harm to his or her physical, psychological or emotional wellbeing against which he or she should have, but does not have, proper protection". More guidance will be contained in government policy and procedures.

Child Safe Environments

Recent debate has focused on mandatory reporting arrangements when abuse or suspicion of abuse arises – but this is not enough. Government has a responsibility for guiding all organisations to adopt a preventative approach to child abuse as well as helping them put in place appropriate processes for when a child may have been harmed.

Ensuring children are protected in all settings is crucial and building child safe environments is fundamental to the Government's commitment to protecting children. The best way forward is to promote and facilitate common commitment and approaches across all government and community organisations, including church agencies.

The child safe environment framework contained in this Bill seeks to ensure that all organisations have an understanding of their responsibilities to prevent child abuse, protect children from predators, and to make sure that effective and timely processes are in place when harm is suspected or has occurred. Provisions in the Bill will require organisations to have in place policies and procedures directed at ensuring the establishment and maintenance of child safe environment.

Further, the government is committed to supporting organisations to fulfil their responsibilities. The South Australian Government through its national leadership role in the Community Services Ministers Child Safe Organisations Working Group is leading the development of a national framework. The group has been charged by Ministers to develop a nationally consistent framework that includes schedules on screening, information exchange and guidelines for building capacity for child safe organisations.

Accordingly the Chief Executive may now produce guidelines for organisations for how to best achieve child safe environments and the Governor has the power to make regulations setting out standards for procedures and practice. Widespread consultation with affected organisations will occur during the development of the standards to ensure that they are suitable. There will be a staged approach that reflects the capacity of the sectors to implement the standards and to reflect evolving practice. The Chief Executive will also be empowered to ensure that appropriate screening is carried out for all volunteers and employees who work with children in government or in services provided to government.

Notification of abuse or neglect

Mandatory reporting has an important part to play in the protection of children. In this State there is a longstanding commitment to mandatory reporting by many professionals. In recent times greater consideration has been given to those environments in which children live and play, and what responsibilities non professional organisations should play in the care and protection of children.

Child abuse in all its forms is shocking to the community, and this is particularly the case when a trusted community leader is found to be the perpetrator of harm. Extending mandatory reporting to ministers of religion, and those employed or volunteering in religious and spiritual organisations, acknowledges the place of spiritual and religious communities and organisations in children's lives. It recognises that some predators against children look to religious organisations in the same way they look to children's services: to seek greater access to vulnerable children. These predators exploit the authority and status of a religious organisation in the minds of individual children and their parents.

The Bill expands the requirements to those employed in, and volunteering in, sporting and recreational services. Sport and play are also fundamental to the healthy development of children and we need to do all we can to make sure that these organisations are focused on helping children to achieve their potential in all aspects of their lives.

It is important to note that those concerned for children will take whatever action they have at their disposal (including making reports) and do not require legislation to compel them. A report does not by itself guarantee a child will be safe; rather it alerts government agencies to suspicions and concerns that a child may not be safe.

The issue of whether to include an obligation for ministers of religion to pass on information received in confessionals has been carefully considered. It has been decided to exclude the confessional from this obligation. However, it is important to note that even if information is disclosed in the confessional, a minister of religion can still make a report based on information gleaned from broader interactions with parishioners and other personnel. The commitment to doing so will come from recognition of a sense of duty and responsibility to protect children from harm. Similarly, the minister of religion needs to have an understanding of and commitment to the requirements of restitution in the confessional which may include advising a person to confess their behaviour and action to an appropriate authority such as the Police.

The more comprehensive approach to child safe environments and renewed emphasis on everyone in the community taking responsibility contained in the Bill will assist us to achieve our objectives.

Court Powers and Orders

The Layton Review noted the importance of the Youth Court having all relevant information about a parent's capacity to care for a child, and the lack of professional assessment currently available if a parent does not volunteer information or agree to voluntary assessment. The Government concurs with this view and amendments have been prepared to order assessment of a parent or guardian. In order to facilitate this assessment the duration of investigation and assessment Orders will be extended to six weeks. Orders requiring a parent, guardian or other person caring for a child to undertake particular activities or instructions are also included.

These amendments are crucial to good assessment and planning for vulnerable children and their families. The intention is to make decisions about children at risk based on more comprehensive assessments of how parents are managing and the difficulties they face. Clear direction about what is expected of parents and what they must do in order to keep their children in safe, stable and nurturing environments sets the scene for a shared focus on the needs of the children concerned.

It is proposed to amend section 48 of the *Children's Protection Act 1993* to ensure that a Court can hear an application in the absence of the child or the legal representative for the child. As indicated in the draft Bill, it is not intended for this to occur as a general rule. Rather, it is to ensure that the Court can act in certain situations, for example where children are still living with their birth family and the birth family do not attend the hearing. Without this provision, children in these situations remain at risk and the Court has no power to protect the child.

Amendments are also sought to section 38 to complement amendments referred to above in relation to those children who cannot live with their birth families. These provisions require the Court to be satisfied that the child's needs for emotional security (including a sense of belonging) will best be met by making a

custody or guardianship order. What needs to be avoided is a child's anxiety about where they are going to be living and who will take responsibility for them, as this can contribute to a lack of trust and adversely affect the child's development. In this context, the Court must consider a long term order compared to a series of short term arrangements.

Improving Accountability

It is intended to replace current provisions for the Children's Protection Advisory Panel (section 55) and the Children's Interests Bureau (section 26 of the *Family and Community Services Act 1972*) and the non legislative Ministerial Advisory Committee on Alternative Care with a single Council for the Care of Children. This is considered necessary because over time there have been differing interpretations of the purpose and function of existing bodies which have resulted in a lack of coordinated focus on the needs and interests of children.

It is therefore essential that the functions, responsibilities and reporting requirements are clearly provided for in the *Children's Protection Act 1993* in order to demonstrate a strong commitment to partnerships and ongoing community involvement in reviewing the child protection system and the Government's reform program.

Establishment of a Council for the Care of Children

This body is intended to have a broad focus on the care and protection of children. It is intended that the Council report to Government on all major aspects of children's circumstances and development with a particular focus on vulnerable populations. Similar to the functions of the present Children's Interests Bureau, the Council will be required to advise the Minister for Families and Communities about community awareness raising strategies which will support the new Object in the Act regarding whole of community approaches.

It is intended that the Council will report to the Minister for Families and Communities and that he will table the report in Parliament. However the broad nature of its focus will mean that it will deal with important issues of child development in both the Departments of Health and Education. This will require close liaison between the committee and the Minister for Families and Communities and the Minister for Health and the Minister for Education.

In addition to a focus on South Australia's commitment to the rights of the child as provided in the United Nations Convention on the Rights of the Child, the Council will also be required to keep under constant review the operations of the Children's Protection Act and the Family and Community Services Act 1972.

The Council is similar to the model called for in recommendation 11 of the Layton review and referred to as The Child Protection Board.

Establishment of a Guardian

It is proposed to establish a Guardian for Children and Young Persons, as the Minister's representative for those children under his guardianship. The inadequacy of the present system for children in alternative care and the implications for their long term future have been highlighted in a number of recent reports, and are the subject of the Commission of Inquiry (Children in State Care) currently being conducted in South Australia.

The Layton Review recommended a statutory office to ensure that this particular group of children have their rights articulated and safeguarded. The Guardian will provide advice and direction on the systemic reform necessary to improve the quality of care provided, with a major focus on advocating for the interests of individual children. The Guardian reports to the Minister for Families and Communities.

Establishment of Child Death and Serious Injury Review Committee

A Child Death and Serious Injury Review Committee is to be established under the *Children's Protection Act 1993* in order to establish a database of the circumstances and causes of child deaths and serious injuries and conduct reviews of certain cases, with the intention of identifying any necessary changes to systems and procedures for the care and protection of children. The Layton Review devoted an entire chapter to this topic, concluding that such a Committee was an essential component of the child protection system, and necessary to improve accountability.

The proposed provisions cover the establishment of the Committee and provide directions for the conduct of individual cases, which are confined to those cases where abuse or neglect may have occurred or is suspected and/or the child was in the care/custody of a Government agency or for some other reason the death or serious injury has occurred in unusual circumstances.

There are also necessary provisions for the Committee to carry out its functions, including access to information; confidentiality provisions; indemnity and immunity provisions, and the relationship between the Committee and key agencies such as the Coroner, SAPOL, and the Chief Executive of the Department for Families and Communities.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

The measure will come into operation on a day to be fixed by proclamation.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Children's Protection Act 1993*

4—Substitution of section 3

This clause deletes existing section 3 and substitutes a new section. Under proposed new section 3, the objects of the Act are as follows:

- to ensure that all children are safe from harm;
- to ensure as far as practicable that all children are cared for in a way that allows them to reach their full potential;
- to promote caring attitudes and responses towards children among all sections of the community so that—
  - the need for appropriate nurture, care and protection (including protection of the child's cultural identity) is understood; and
  - risks to a child's wellbeing are quickly identified; and
  - any necessary support, protection or care is promptly provided; and
  - to recognise the family as the primary means of providing for the nurture, care and protection of children and to accord a high priority to supporting and assisting the family to carry out its responsibilities to children.

5—Substitution of section 4

This clause deletes existing section 4 and substitutes a new section. Proposed new section 4 lists a number of fundamental principles, the first being that every child has a right to be safe from harm.

The proposed section also provides that every child has a right to protection and care in a safe and stable family environment or, if such a family environment cannot for some reason be provided, in some alternative form of care in which the child has every opportunity to develop to his or her full potential.

These principles, and the child's wellbeing and best interests, are to be the paramount considerations in exercising powers under the Act. For the purpose of determining a child's best interest, consideration must be given to—

- the desirability of keeping the child within the child's own family and the undesirability of withdrawing the child unnecessarily from a neighbourhood or environment with which the child has an established sense of connection; and
- the need to preserve and strengthen relationships between the child, the child's parents and other members of the child's family (whether or not the child is to reside with those parents or other family members); and
- the need to encourage, preserve and enhance the child's sense of racial, ethnic, religious, spiritual and cultural identity and to respect traditions and values of the community into which the child was born; and
- the child's own views as to his or her own best interests (if the child is able to form and express such views); and
- the undesirability of interrupting the child's education or employment unnecessarily.

The Aboriginal Child Placement Principle is to be observed in relation to Aboriginal children.

The proposed section also provides that a child who is placed (or about to be placed) in alternative care (a definition of ***alternative care*** is inserted by clause 6)—

- must be provided with—
- a nurturing, safe and stable living environment; and

· care that is, as far as practicable, appropriate to the child's needs and culturally appropriate;

· must be allowed to maintain relationships with the child's family and community (to the extent that such relationships can be maintained without serious risk of harm);

· must be consulted about, and (if the child is reasonably able to do so) to take part in making, decisions affecting the child's life, particularly decisions about the child's ongoing care, where the child is to live, contact with the child's family and the child's health and schooling;

· must be given information that is appropriate, having regard to the child's age and ability to understand, about plans and decisions concerning the child's future;

· is entitled to have his or her privacy respected;

· if the child is in alternative care on a long-term basis—is entitled to regular review of the child's circumstances and the arrangements for the child's care.

6—Amendment of section 6—Interpretation

This clause inserts two new definitions into the interpretation section of the Act. The ***Aboriginal Child Placement Principle*** is the principle of that name as stated in the regulations. ***Alternative care*** means care provided for a child on a residential basis by or through a government or non-government agency or in a foster home. ***Alternative care*** includes care provided in a detention facility for a child who is held there in lawful detention and care provided under independent living arrangements made for a child under the Minister's guardianship. "Foster home" includes a foster home provided by a member of the child's family. (***Family*** is defined in section 6 to include, in relation to an Aboriginal or Torres Strait Islander child, any person held to be related to the child according to Aboriginal kinship rules, or Torres Strait Islander kinship rules, as the case may require.)

As a consequence of the amendment made by this clause to subsection (2) of section 6, a child will be at risk for the purposes of the Act if there is a significant risk that the child will suffer serious harm to his or her physical, psychological or emotional wellbeing against which the child should have, but does not have, proper protection.

7—Substitution of heading to Part 2

This is a consequential amendment.

8—Amendment of section 8—General functions of the Minister

This clause amends section 8 to require the Minister to endeavour to encourage the provision of child safe environments.

9—Insertion of Part 2 Divisions 2 and 3

This clause inserts two new Divisions into Part 2 of the Act. Division 2 contains proposed new **section 8A**. This section provides that the Chief Executive has the following functions:

· to develop codes of conduct and principles of good practice for working with children;

· to provide guidance on appropriate standards of conduct for adults in dealing with children;

· to define appropriate standards of care for ensuring the safety of children;

· to provide guidance on how to deal with cases involving the bullying or harassment of a child;

· to disseminate information about child abuse and neglect so that cases of child abuse and neglect are more readily recognised and more promptly dealt with;

· to provide guidance on how to deal with cases involving the suspected abuse or neglect of a child;

· to provide guidance on the recruitment and supervision of staff of government and non-government organisations who may have contact with children in the course of their employment;

· to ensure, as far as practicable, that procedures for making complaints about cases of suspected child abuse or neglect are easily accessible and, in particular, that they are accessible and responsive to children;

· to monitor progress towards child safe environments in the government and non-government sectors and to report regularly to the Minister on that subject; and

· to develop and issue standards to be observed in dealing with information obtained about the criminal history of employees and volunteers who work with children in government or non-government organisations.

Division 3 includes two new sections connected to the provision of child safe environments. Under **section 8B**, the Chief Executive is required to ensure that a report is obtained on the criminal history (if any) of each person occupying or acting in a prescribed position when the section comes into operation. The Chief Executive must also ensure that, before a person is appointed to a prescribed position, a report on the criminal history of the person is obtained. A ***prescribed position*** is a position in a government department, agency or instrumentality that requires or involves regular contact with children or work in close proximity to children on a regular basis, supervision or management of such persons, access to records relating to children, or the performance of functions or the undertaking of activities prescribed by regulation. These requirements apply in relation to employees, volunteers, agents, contractors and subcontractors.

The section also gives the Chief Executive the power to obtain a report on the criminal history of a person who—

· occupies or acts in a prescribed position; or

· provides, or proposes to provide, services for the government or is engaged by a non-government organisation that provides, or proposes to provide, services for the government.

The Chief Executive may obtain such reports in respect of employees, volunteers, agents, contractors and subcontractors if he or she thinks it necessary or desirable to do so for the purpose of establishing or maintaining child safe environments. The Chief Executive is also required to ensure that information about the criminal history contained in reports obtained under the section is dealt with in accordance with relevant standards.

Proposed **section 8C** applies to an organisation that provides health, welfare, education, sporting or recreational, religious or spiritual, child care or residential services wholly or partly for children and is a Government department, agency or instrumentality, or a local government or non-government agency. Such organisations are required to establish policies and procedures for ensuring that appropriate reports of abuse or neglect are made under Part 4 of the Act and that child safe environments are established and maintained within the organisation. Policies and procedures may vary according to the size, nature and resources of the organisation. However, they must include the provisions (if any) prescribed by regulation and provisions relating to the matters (if any) prescribed by regulation.

10—Amendment of section 11—Notification of abuse or neglect

Section 11(1) provides that if a person to whom the section applies forms a suspicion on reasonable grounds during the course of his or her work that a child has been or is being abused or neglected, the person must notify the Department of the suspicion.

This clause amends section 11(1) by increasing the penalty for failing to comply with the requirement to notify the Department under subsection (1) from $2 500 to $10 000.

The clause alters the list of persons to whom the section applies by adding the following:

· a priest or other Minister of religion;

· a person who is an employee of, or volunteer in, an organisation formed for religious or spiritual purposes.

An amendment is also made to section 11(2)(j) to insert a reference to persons employed by, or volunteering in, organisations that provide sporting or recreational services.

Proposed new subsection (4) provides that section 11 does not require a priest or other minister of religion to divulge information communicated in the course of a confession made in accordance with the rules and usages of the relevant religion.

A further new subsection provides that a person does not necessarily exhaust his or her duty of care to a child by giving a notification under section 11.

11—Amendment of section 21—Orders Court may make

As a consequence of the amendment proposed to be made by this clause to section 21, the Youth Court will be able to make an order authorising the assessment of a parent, guardian or other person who has, or is responsible for, the care of a child for the purpose of determining the capacity of

that parent or other person to care for and protect the child. The assessment may be undertaken by a social worker or other expert.

12—Amendment of section 38—Court's power to make orders

As a consequence of the amendment proposed to be made by this clause to section 38, the Youth Court will be able to make a consequential or ancillary order requiring a parent, guardian or other person who has the care of a child to undertake specified courses of instruction, or programmed activities, in order to increase his or her capacity to care for and protect the child.

The second amendment proposed to be made to section 38 involves the insertion of two new subsections in place of existing subsection (2). Under proposed new section 38(2), the Youth Court must be satisfied, before making an order giving custody or guardianship of a child to a person who is not a parent of the child, that there is no parent able, willing and available to provide adequate care and protection for the child. The Court must also be satisfied that the order is the best available solution. In determining whether the order is the best solution, the Court must have regard to the child's need for care and protection (including emotional security) and the child's age, developmental needs and emotional attachments.

If a child is to be placed in guardianship, the Court must, under proposed subsection (2a), consider the importance of settled and stable living arrangements for the child. The provision states that as a general rule, a long term guardianship order (ie an order under section 38(1)(d)) is to be preferred to a series of temporary arrangements for the custody or guardianship of the child.

13—Amendment of section 48—Legal representation of child

The contents of proposed new subsection (3) of section 48 currently appear as a parenthetical passage in subsection (1). This passage provides that a child must be given a reasonable opportunity to give his or her own views personally to the Court about his or her ongoing care and protection unless the Court is satisfied that the child is not capable of doing so. As a result of this amendment, that passage will become a new subsection with the additional qualification that the child is not required to give his or her views if to do so would give rise to an unacceptable risk to the child's wellbeing.

14—Insertion of Parts 7A, 7B and 7C

This clause inserts three new Parts. These Parts establish the position of the Guardian for Children and Young Persons, the Council for the Care of Children and the Child Death and Serious Injury Review Committee.

Proposed new **section 52A** provides that there is to be a Guardian for Children and Young Persons appointed by the Governor. Under **section 52B**, the Guardian is to be provided with the staff and resources reasonably necessary to carry out the Guardian's functions.

These functions are listed in **section 52C**:

- to promote the best interests of children under guardianship, and in particular those in alternative care;
- to act as an advocate for the interests of children under guardianship;
- to monitor the circumstances of children under the guardianship of the Minister or in the custody of the Minister;
- to provide advice to the Minister on the quality of care provided for children in the Minister's care, custody or guardianship and on whether the children's needs are being met;
- to inquire into, and provide advice to the Minister in relation to, systemic reform necessary to improve the quality of care provided for children in alternative care; and
- to investigate and report to the Minister on matters referred to the Guardian by the Minister.

Section 52C also provides that a government or non-government organisation that is involved in the provision of services to children must, at the Guardian's request, provide the Guardian with information relevant to the performance of the Guardian's functions.

Under **section 52D**, the Guardian is required to report periodically to the Minister on the performance of his or her statutory functions. The Guardian must also report to the Minister on the performance of his or her statutory functions on or before 31 October in each year and the Minister must table such a report in Parliament. **Section 52E** provides that information about individual cases disclosed to the Guardian or a member of his or her staff is to be kept confidential. Such information is not liable to disclosure under the *Freedom of Information Act 1991*.

Part 7B deals with the Council for the Care of Children. The Council is established under **section 52F**. This section provides that the Council is to consists of up to 10 members (including at least one Aboriginal member and 2 young persons with experience of alternative care) appointed by the Governor. The Council is also to consist of the chief executive of any department designated by the Minister as a department closely involved in issues related to the care and protection of children.

The Minister may, before the Governor makes an appointment to the Council, call for nominations from government or non-government agencies that the Minister believes should be represented on the Council.

A member of the Council will be appointed by the Governor to chair the Council. Although the Council will be subject to the direction of the Minister, it cannot be directed to make a particular finding or recommendation. A direction by the Minister is to be published in the annual report of the Council. **Section 52G** provides that a member of the Council holds office for the term stated in the instrument of appointment (not more than two years) and is then eligible for reappointment. This section also lists the circumstances in which the office of a member of the Council becomes vacant and provides that the Governor may remove a member from office in certain specified circumstances.

Under **section 52H**, the Council will determine its own procedures (subject to any directions of the Minister). However, the section lists a number of requirements. The Council is required to meet at least five times in each year. The person appointed to chair the Council is to preside at meetings of the Council and, in the absence of that person, a member chosen by the members present at the meeting will preside. A question arising for decision at a meeting of the Council will be decided by a majority of the votes cast by the members present at the meeting. Each member present at a meeting of the Council will be entitled to one vote on any question arising for decision at the meeting and, if the votes are equal, the person presiding will have a casting vote. The Council may delegate to a member, or a sub-committee of its members, any of its powers or functions under the Act.

Under **section 52I**, the Minister is required to provide the Council with the staff and other resources that it reasonably requires for carrying out its functions.

The functions of the Council, listed under **section 52J**, are:

- to keep under review the operation of the *Children's Protection Act 1993* and the *Family and Community Services Act 1972* so far as it affects the interests of children;
- to provide independent advice to the Government on the rights and interests of children;
- to report to the Government on progress achieved towards—
  - keeping children safe from harm; and
  - ensuring that all children are cared for in a way that allows them to realise their full potential; and
  - improving the physical and mental health, and the emotional wellbeing, of children; and
  - improving access for children to educational and vocational training; and
  - improving access for children to sporting and healthy recreational activities; and
  - ensuring that children are properly prepared for taking their position in society as responsible citizens;
  - maintaining the cultural identity of children;
- to promote the safe care of children by their families (or surrogate families) and communities with particular reference to vulnerable children;
- to provide advice to the Minister on various matters, such as raising community awareness of the relationship between the needs of children for care and protection and their development, creating environments

that are safe for children, and initiatives involving the community as a whole for the protection or care of children; and

- to investigate and report to the Minister on matters referred to the Council for advice.

Under **section 52K**, the Council is required to report periodically to the Minister on the performance of its statutory functions and must, on or before 31 October in each year, report to the Minister on the performance of its statutory functions during the preceding financial year. The Minister is required to have copies of this report laid before both Houses of Parliament.

Section 52L provides that information about individual cases disclosed to the Council or a person employed (or formerly employed) to assist the Council is to be kept confidential. Such information is not liable to disclosure under the *Freedom of Information Act 1991*. However, the section does not prevent the disclosure of information about suspected offences or suspected child abuse or neglect to appropriate authorities.

Section 52M provides that no civil liability attaches to the Council, a member of the Council, or a member of the Council's staff for an act or omission in the exercise or purported exercise of official powers or functions. An action that would otherwise lie against the Council, or a member of the Council or a staff member, lies against the Crown. However, the section does not prejudice rights of action of the Crown in relation to an act or omission not in good faith.

Part 7C deals with the Child Death and Serious Injury Review Committee. The Committee is established under **section 52N** and is to consist of the members appointed by the Governor. The Minister may, before appointments are made to the Committee, call for nominations from organisations (including departments and agencies of the government) that should be represented on the Committee (in the Minister's opinion). A member of the Committee will be appointed by the Governor to chair the Committee.

The Committee is subject to the direction of the Minister but cannot be directed to make a particular finding or recommendation. A direction by the Minister must be published in the relevant annual report of the Committee.

Section 52O provides that a member holds office for a term stated in the instrument of appointment and is then eligible for reappointment. The office of a member of the Committee becomes vacant in the following circumstances:

- the member dies;
- the member completes a term of office and is not reappointed;
- the member resigns by written notice to the Minister;
- the member is absent from 3 consecutive meetings of the Committee without the Committee's permission (but the absence may be excused by the Minister);
- the member is convicted either within or outside the South Australia of an indictable offence or an offence carrying a maximum penalty of imprisonment for 12 months or more; or
- the member is removed from office by the Governor.

The office of a member also becomes vacant if the member was appointed as nominee of a particular organisation and the organisation notifies the Minister, in writing, that the member no longer represents the organisation.

A member may be removed from office by the Governor for—

- breach of, or non-compliance with, a condition of appointment;
- failure to disclose to the Committee a personal or pecuniary interest of which the member is aware that may conflict with the member's duties of office;
- neglect of duty;
- mental or physical incapacity to carry out duties of office satisfactorily;
- dishonourable conduct; or
- any other reason considered sufficient by the Minister.

Under **section 52P**, the Committee will determine its own procedures (subject to any directions of the Minister). However, the section lists a number of requirements. The Committee is required to meet at least five times in each year. The person appointed to chair the Committee is to preside at meetings of the Committee and, in the absence of that person, a member chosen by the members present at the meeting will preside. A question arising for decision at a meeting of the Committee will be decided by a majority of the votes cast by the members present at the meeting. Each member present at a meeting of the Committee will be entitled to one vote on any question arising for decision at the meeting and, if the votes are equal, the person presiding will have a casting vote. The Committee may delegate to a member, or a sub-committee of its members, any of its powers or functions under the Act.

The Minister is required under **section 52Q** to provide the Committee with the staff and other resources it needs for carrying out its functions and exercising its powers. This section also provides that the Committee may, with the Minister's approval, engage an expert to assist it in the review of a particular case or in carrying out any other aspect of its functions.

Section 52R provides that no civil liability attaches to the Committee, a member of the Committee, or a member of the Committee's staff for an act or omission in the exercise or purported exercise of official powers or functions. An action that would otherwise lie against the Committee, or a member of the Committee or a staff member, lies against the Committee. However, the section does not prejudice rights of action of the Crown in relation to an act or omission not in good faith.

The functions of the Committee are detailed in **section 52S**. The Committee has two principle functions. The first is to review cases in which children die or suffer serious injury with a view to identifying legislative or administrative means of avoiding a recurrence of such cases in the future. The second principle function is to make, and monitor the implementation of, recommendations for avoiding preventable child death or serious injury to a child. A review may be carried out if the incident resulting in the death or serious injury occurred in South Australia or the child was, at the time of the death or serious injury, ordinarily resident in South Australia. The section further provides that the Committee should review a case of child death or serious injury if the death or serious injury was due to abuse or neglect or there are grounds to suspect that the death or serious injury may be due to abuse or neglect. The Committee should also review a case of child death or serious injury if there are grounds to believe that the death or serious injury might have been prevented by some kind of systemic change, or the child was, at the time of death or serious injury, in custody or detention or in the care of a government agency. A death or injury should also be reviewed if the case was referred to the Committee by the State Coroner.

The section provides that the Committee is not to review a case of child death or serious injury unless there is no risk that the review would compromise an ongoing criminal investigation of the case. There is a further requirement that a case not be reviewed unless a coronial inquiry has been completed, the State Coroner requests the Committee to carry out the review or the State Coroner indicates that there is no present intention to carry out a coronial inquiry.

The purpose of a review carried out by the Committee is to identify trends and patterns in cases of child death and serious injury, to review policies, practices and procedures designed to prevent cases of child death or serious injury, and to provide an objective basis for the Committee's recommendations.

The Committee cannot make findings as to civil or criminal liability.

As a general rule, a review by the Committee is to be carried out by examination of coronial and other records as well as reports relevant to the case.

The Committee is required under **section 52T** to maintain a database of child deaths and serious injuries and their causes. Only members of the Committee, or persons authorised by the Commissioner of Police, the State Coroner, the Committee or the Minister, are to have access to the database.

Section 52U provides that the Committee may enter into an arrangement with an agency or instrumentality of the government under which information about child deaths and

serious injuries will be passed on to the Committee. An agency or instrumentality of the government may enter into, and carry out its obligations under, such an arrangement despite any statutory provision against the disclosure of confidential information or any rule of the common law or equity.

Under **section 52V**, the Committee, or a person authorised by the Committee to conduct a review, may request a person who may be in a position to do so to produce documents, to allow access to documents or other information, or to provide information (in writing) that may be relevant to the review. Failure to comply with such a requirement is an offence with a maximum penalty of $10 000. A parent or relative of a child cannot be compelled to comply with a requirement under the section. A person may refuse to comply with a requirement on the ground that the information sought might tend to incriminate him or her of an offence. A person does not commit an offence if he or she refuses to comply with a request if the document or other information is protected by legal professional privilege and the refusal is based on that ground. Also, a request cannot be validly made of a person who has access to confidential information by virtue of an authorisation under section 64D of the *South Australian Health Commission Act 1976* to disclose or allow access to the information.

A person does not, by complying with a requirement under the section, contravene a statutory prohibition against the disclosure of confidential information, any rule of the common law or equity, or any principle of professional ethics.

Section 52W imposes reporting obligations on the Committee. The Committee is required to report periodically to the Minister on the performance of its statutory functions and must, on or before 31 October in each year, report to the Minister on the performance of those functions during the preceding financial year.

Under **section 52X**, information about individual cases disclosed to the Committee or a person employed (or formerly employed) to assist the Committee is to be kept confidential and is not liable to disclosure under the *Freedom of Information Act 1991*. A member of the Committee, or a person who has been employed in duties related to the functions of the Committee, must not disclose confidential information obtained as a result of his or her official position. However, information about possible criminal offences must be reported by the Committee to the Commissioner of Police. Also, if the Committee comes into possession of information suggesting that a child may be at risk of neglect or abuse, the Committee must pass the information on to the appropriate authorities. The Committee must disclose information relevant to a coronial inquiry or possible coronial inquiry to the State Coroner.

15—Repeal of section 55

Section 55 of the Act is deleted by this clause. This section provides for the establishment of the *Children's Protection Advisory Panel*.

Schedule 1—Related amendment of *Family and Community Services Act 1972*

1—Repeal of Part 4 Division 1

This clause repeals Part 4 Division 1 of the *Family and Community Services Act 1972*. This Division establishes the *Children's Interests Bureau.*

Schedule 2—Statute law revision amendment of *Children's Protection Act 1993*

Schedule 2 contains a number of statute law revision amendments of the *Children's Protection Act 1993*.

Ms CHAPMAN secured the adjournment of the debate.

RECREATIONAL SERVICES (LIMITATION OF LIABILITY) (MISCELLANEOUS) AMENDMENT BILL

The Hon. K.A. MAYWALD (Minister for Consumer Affairs) obtained leave and introduced a bill for an act to amend the Recreational Services (Limitation of Liability) Act 2002. Read a first time.

The Hon. K.A. MAYWALD: I move:

That this bill be now read a second time.

This bill makes several minor, discreet but important changes to the Recreational Services (Limitation of Liability) Act 2002. The bill amends the act to reinstate the use of liability waivers for recreational service providers; clarify the definition of recreational services so that it is beyond question that not-for-profit bodies are covered by this legislation; and allows a minor amendment, not affecting substance, to be made to a registered safety code without the need for the process of public consultation and laying before both Houses of Parliament. I seek leave to have the balance of the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Reinstating the use of liability waivers

The Act brought in a new system for limiting liability for personal injury between recreational service providers and consumers. Under that system, a provider or a peak industry body, develops and registers a safety code for a particular recreational activity. Once the code is registered, other providers can register an undertaking to comply with the code. The code sets out the safety standards the provider will comply with. Only a failure to meet those standards can result in a successful claim for damages by an injured consumer.

When the Act came into operation, one of its effects was to bring an end to the effectiveness of liability waivers that some providers had been using. These waivers are agreements between the consumer and the provider that the consumer will not sue the provider in the event of the consumer's injury. Under the Act, these waivers became ineffective because the Act establishes that the only way in which the provider's liability can be modified is through the use of a safety code.

No codes have yet been registered. Five have been submitted for registration and are currently undergoing the process for registration. It is likely that the reasons for the low uptake of the code system are multiple, including the subsiding of the problems with the availability and terms of public liability insurance, and the fact that many organisations have chosen to adopt a national approach rather than use the state-based system.

In October 2005, the Masters Games will be held in Adelaide. The Games' insurer has advised that it is unwilling to insure the games organisers unless the organisers register safety codes under the Act for each of the more than 60 sporting activities on the Games schedule. There are no codes in place for the proposed activities. The peak bodies for those activities have chosen, to date, not to register codes. A separate code is required for each sport or activity. The process for developing and registering a code requires a period of public consultation and the code being laid before both Houses. There is insufficient time for this to occur for each of the sports or activities in time for the Masters Games in October of this year.

In order to ensure that this important event can go ahead, the solution is to allow the Masters Games organisers to seek liability waivers from Games participants. This is what occurs when the Masters Games occurs interstate, and what would have occurred if the *Recreational Services (Limitation of Liability) Act 2002* did not preclude such waivers.

However, the Masters Games is not the sole reason for seeking this amendment. It has become clear that recreational service providers require assistance in the transition to safety codes.

The Bill incorporates a provision that has the effect of allowing recreational service providers to use waivers while safety codes are being developed. This places the provider and the consumer in the same position that they were in prior to the Act being passed. If no code has been registered for a particular recreational service, providers will be allowed to use waivers. Once a code is registered for a recreational service, providers will not be permitted to use waivers, because the code option for limiting liability then exists for them.

In order to ensure that the transition to codes is still encouraged, a sunset clause of two years applies to this new provision.

In effect, the only consequence of this provision is to provide a period of two years during which recreational service providers may use waivers, while they arrange for codes to be developed and registered.

Amendments to codes of practice

Under the Act, an amendment to a safety code is in itself a new code, and must proceed through the same registration process

including public consultation and being laid before both Houses. In many cases, this will be appropriate as the changes to the code will affect the rights of recreational service providers and consumers alike. However, in some cases an amendment to a safety code will simply correct an initial error or change a reference. In such cases, it would be onerous on the proponent to require the full process to be undertaken.

The Bill acknowledges this by conferring on the Minister for Consumer Affairs the power to register an amendment that only affects the form, and not the substance, of the original code. In making that decision, the Minister will consult with various parties prescribed in regulations that are also being proposed.

Definition of "recreational services

The Act currently defines ***recreational services*** by reference to the definition in the *Trade Practices Act (Cwth)*.

At the time the Act was passed, it was not identified that there is the potential for an argument to arise that the limitation of the application of the *Trade Practices Act* to services provided in trade or commerce, might translate into a similar limitation in the South Australian Act. Whilst I understand that such an argument is unlikely to succeed, it is important to clarify this issue so that recreational service providers and consumers alike can be certain as to whether the Act applies to the activity that they are offering, or participating in.

It is important to clarify this issue because if the South Australian Act was limited to services provided "in trade or commerce", recreational services provided in circumstances that did not amount to "trade or commerce" would not be covered by the Act. In turn, this would mean that a provider who had relied on the Act by registering an undertaking and complied with that undertaking could still be found liable for the personal injuries of a consumer injured whilst participating in that activity. This would be most likely to occur in relation to a recreational service provider operating in the not-for-profit sector.

For the avoidance of doubt, the Bill clarifies the definition in the South Australian Act by expressly stating that the definition is not limited to services provided in trade or commerce.

For completeness, I advise the House that amendments to the regulations under the Act have also been prepared to support this Bill. In addition, the regulations will allow the fees under the Act to be waived or reduced. The regulation-making power in the Act already allows for this. The fee waiver or reduction is designed to assist not-for-profit organisations and small businesses to develop safety codes.

The Act and new regulations are proposed to come into operation on 1 August 2005, enabling the Masters Games to proceed in October of this year.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Recreational Services (Limitation of Liability) Act 2002*

4—Amendment of section 3—Interpretation

This clause inserts a new subsection (3) into section 3 of the *Recreational Services (Limitation of Liability) Act 2002*. The proposed subsection ensures that the definition of ***recreational services*** is not limited to services provided in trade or commerce or limited by any other provision of the *Trade Practices Act 1974 (Cwth)* other than the definition of ***recreational services*** in that Act.

5—Amendment of section 4—Registration of code of practice

This clause inserts a new subsection (4a) into section 4 of the *Recreational Services (Limitation of Liability) Act 2002*. The proposed subsection allows the Minister to make amendments to a code without the need to comply with the requirements set out in subsection (4), where the Minister determines, having consulted with the persons or bodies prescribed by the regulations, that the amendment only corrects an error or makes a change of form as opposed to a change of substance in the relevant code.

6—Amendment of section 9—Other modification or exclusion of duty of care not permitted if registered code applies

This clause inserts a new subsection (2) and (3) into section 9 of the *Recreational Services (Limitation of Liability) Act 2002*. If the recreational service is not governed by a registered code, the proposed subsection (2) enables the provider of a recreational service to modify or exclude a duty of care owed to a consumer. The proposed subsection (3) provides for the expiry of subsection (2), 2 years from its commencement.

Ms CHAPMAN secured the adjournment of the debate.

CITRUS INDUSTRY BILL

The Hon. R.J. McEWEN (Minister for Agriculture, Food and Fisheries) obtained leave and introduced a bill for an act to provide for the South Australian Citrus Industry Development Board and for administration by the board of a fund for citrus industry purposes; to repeal the Citrus Industry Act 1991; and for other purposes. Bill read a first time.

The Hon. R.J. McEWEN: 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.

The 2001 National Competition Policy review of the *Citrus Industry Act 1991* revealed that this Act has a number of anti competitive elements and requires reform.

To assist in reform of legislation, the Government established the *Citrus Industry Implementation Committee* in November 2003. The Citrus Industry Implementation Committee comprised representatives of all growing, packing, processing, wholesaling and retailing sectors of the SA Citrus Industry. This Committee has guided the process to produce draft citrus industry legislation, and supporting documentation about the proposed changes for consideration and comment by industry and the general public.

Originally it was intended to amend the *Citrus Industry Act 1991* by removing anti competitive marketing elements, and ultimately repealing the Act in July 2005.

In March 2004, a draft Bill to make these amendments and sunset the Citrus Industry Act was presented to industry for comment via a public consultation process. Overall, industry indicated that it wanted to retain some basic legislation and not repeal the Citrus Industry Act.

In response to this feedback, a further review of the citrus industry's legislative requirements was undertaken. Through numerous industry consultation processes and meetings, a complete rewrite of the Act has occurred.

The process of reviewing industry legislative requirements was undertaken in parallel to a business planning approach for the new SA Citrus Industry Development Board. This business planning was undertaken to ensure that the proposed new legislation could be effectively translated to appropriate service and delivery mechanisms.

The main emphasis of the changes to the citrus legislation is to move it from a marketing control focus to an industry development focus.

The proposed new Bill:

- Establishes a new Board, the *South Australian Citrus Industry Development Board*, to administer the new Act, with membership streamlined to 7 members to reduce costs. This "whole of industry" structure will foster a better understanding by each sector of the business conditions affecting the SA citrus supply chain.
- Specifies functions of the Board including:
  - Administration of the Citrus Industry Fund
  - Promoting the citrus industry and its products.
  - Planning, funding and facilitating research.
  - Collecting and analysing citrus industry data.
  - Disseminating technical, scientific, economic and market information.
  - Providing advice and services to the industry
  - Providing advice to the Minister relating to citrus food safety, plant health and other matters.

· Provides for the establishment of the Citrus Industry Fund to manage funds collected under the Bill, and how these can be used for industry development purposes. The processes for planning, managing and reporting on this fund are based on those used under the Primary Industries Funding Schemes Act.

· Requires growers, packers, processors and wholesalers to notify the Board that they are participating in the industry. This enables the Board to maintain a register of growers, packers, processors and wholesalers to facilitate information distribution and product traceability processes.

· Enables the Board to gather information associated with citrus plantings, volumes of trade, food safety, and pest and disease issues, and to use this industry information generated in strategic planning and communication processes.

· Requires a major review of the Act, with reporting to Parliament, within 6 years (2010).

· Repeals the Citrus Industry Act 1991.

· Includes transitional arrangements including:

· Transfer of Citrus Board of SA funds to the new Citrus Industry Fund

· Arrangements for the final audit and annual report of the Citrus Board of SA under the *Citrus Industry Act 1991* to be undertaken in conjunction with the first audit and annual report under the new measure.

· Initial appointment of a new Board.

It is intended that regulations made under the measure will contain:

· Ongoing arrangements for appointment of Citrus Board members.

· The process for fixing and notifying industry of contributions to be made to the Citrus Industry Fund.

· Flexible processes for fixed or variable funds collection mechanisms to be used. The vast majority of funds collection will be based on variable tonnage throughput of businesses that are very similar to that currently used by the Citrus Board of SA. This new fund collection process is based on voluntary fund collection mechanisms used in the Primary Industries Funding Schemes Act.

The Bill and Regulations will enable the SA Citrus Industry Development Board to deliver the following:

· Management and input to whole of industry issues and industry development opportunities for the SA citrus industry.

· A range of cost-effective industry services to SA citrus industry participants and other stakeholders based on proven demand, including information products, product promotion and training services.

· A new biosecurity function empowering the Board to provide advice to the responsible Minister on the application and administration of the *Fruit and Plant Protection Act 1992* to the citrus industry.

· In cooperation with national and interstate citrus bodies, collection, analysis and distribution of information relating to the citrus industry and its future development.

· Influence in industry research, development, promotion and other development programs that are managed at a national level.

The Bill contains provisions for facilitating the establishment of a Citrus Industry Food Safety Scheme under the *Primary Produce (Food Safety Schemes) Act 2004* and administration of the scheme by the Board. A scheme will be put in place that requires industry to have basic food safety provisions. The Board will provide further advice on future amendments to this scheme.

Through these changes, the following marketing elements of the current *Citrus Industry Act 1991* are removed in the proposed new legislation:

· The compulsory control of flow of citrus product in the SA marketing chain from grower to packer to wholesaler to retailer.

· Grade standards and linkages to the Export Control Orders, enabling market forces to determine quality, size and other product specifications, as occurs with all other horticulture commodities.

· Registration or licensing conditions for packers and wholesalers that constrain access to the industry.

· Fund collection services where payment for citrus sold by wholesalers is currently collected by the Citrus Board of SA and forwarded to packers.

As a result of these changes, growers and packers will have greater marketing flexibility and may choose to sell direct to retail outlets rather than be forced to market through a wholesaler. In turn wholesalers will lose the protection of the trade in citrus on the Adelaide market being forced to go through their businesses. These changes will provide citrus with the same marketing arrangements that apply to all other produce.

Packers will also need to arrange collection of their funds from Adelaide market wholesalers (as occurs with all other produce) rather than have the Citrus Board do this and provide a credit management service.

Overall these changes to the citrus legislation update it, and move it away from a marketing control focus so that it complies with National Competition Policy. The new Bill provides a fresh emphasis on citrus industry development to enhance growth of this important horticulture industry.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

This clause provides definitions necessary for the purposes of the measure. The definition of citrus industry participant sets the scope for notifications and contributions under the measure. It covers citrus growers, citrus packers, citrus processors and citrus wholesalers.

Part 2—Citrus Industry Board of South Australia

4—Establishment of Board

The South Australian Citrus Industry Development Board is established. It is the same body corporate as the Citrus Board of South Australia established under the *Citrus Industry Act 1991*.

5—Functions of Board

The Board is given a number of functions relating to the citrus industry, including administration of an industry fund, gathering and dissemination of information relevant to the industry and promotion of the citrus industry.

The Board is to provide advice to Ministers about the establishment of a citrus industry food safety scheme under the *Primary Produce (Food Safety Schemes) Act* and about the bio-security measures of the *Fruit and Plant Protection Act*.

6—General directions by Minister

The Board is subject to direction of the Minister given in the public interest. The Minister is required to consult the Board before giving a direction and a copy of a direction must be laid before each House of Parliament.

7—Membership of Board

There are to be 7 members appointed by the Governor. The presiding member is to be nominated by the Minister and 6 others are to be appointed in accordance with the regulations. It is proposed to continue the current selection committee process.

8—Terms and conditions of membership

This clause governs the terms and conditions of membership of the Board.

9—Remuneration

The Governor is to determine entitlements of members to remuneration, allowances and expenses.

10—Conflict of interest under Public Sector Management Act

For the purposes of the conflict of interest provisions in the *Public Sector Management Act*, a member of the Board will not be taken to have a direct or indirect interest in a matter by reason only of the fact that the member has an interest in the matter that is shared in common with the citrus industry or a substantial section of the citrus industry.

11—Procedures of Board

This clause governs the procedures to be followed by the Board.

12—Committees

The Board may establish committees.

13—Delegation

The Board may delegate a function or power to a member or a committee.

14—Validity of acts of Board

The usual provision for saving acts or proceedings despite a vacancy in membership is included.

Part 3—Citrus Industry Fund

15—Establishment of Fund

Citrus industry participants are to contribute to a Citrus Industry Fund as provided for in the regulations.

It is proposed that the contribution system involve an annual flat amount and a variable amount for each different class of citrus industry participant and to continue the procedure of packers and processors making contributions on behalf of growers on a monthly basis.

16—Application of Fund

The Fund is to be applied by the Board for the purposes of its functions.

17—Management plan for Fund

There are to be 5 year rolling management plans for the Fund presented on an annual basis at a public meeting.

18—Audit of Fund

The Fund is to be audited on an annual basis by the Auditor-General.

19—Annual report for Fund

An annual report on the Fund is to be submitted to the Minister and laid before each House of Parliament.

Part 4—Information about citrus industry

20—Notification of participation in citrus industry

A citrus industry participant must notify the Board of entrance into the industry. The information provided to the Board must be kept up to date. See clause 3 for the definition of citrus industry participant.

21—Powers of Board to gather information

The Board may require citrus industry participants to provide periodic returns. The Board may also inspect records relevant to the information in a periodic return.

Part 5—Miscellaneous

22—False or misleading information

It is an offence to make a statement that is false or misleading in a material particular (whether by reason of the inclusion or omission of a particular) in information provided under the measure.

23—Service

This clause provides arrangements for the service or giving of notices.

24—Liability of members of bodies corporate

The usual provision for liability of members of bodies corporate is included.

25—General defence

A general defence is provided that the alleged offence was not committed intentionally and did not result from any failure on the part of the defendant to take reasonable care to avoid the commission of the offence.

26—Regulations

General regulation making power is provided.

27—Review of Act

The Act is to be reviewed within 6 years and a report laid before each House of Parliament.

Schedule 1—Repeal, transitional and temporary provisions

Part 1—Repeal of *Citrus Industry Act 1991*

1—Repeal

The *Citrus Industry Act 1991* is repealed.

Part 2—Transitional provisions—general

2—Funds

The funds of the current Board are to be paid into the Citrus Industry Fund.

3—Audit and annual report

The first audit and annual report is to cover the period of transition from the current arrangements to the new arrangements.

4—Regulations

Regulation making power for savings or transitional matters is provided.

Part 3—Transitional provisions—Board

5—Selection of members of first Board

The first members of the Board are to be appointed through the selection committee process set out in this Part.

3 are to be citrus growers with extensive knowledge of and experience in the production of citrus fruit and 3 are to be other persons with extensive knowledge of and experience in the marketing of citrus fruit or citrus fruit products or any other foodstuffs.

6—Establishment and membership of selection committee

The committee is to consist of 5 members appointed by the Minister. These members are to be selected from a panel of 10 persons nominated by organisations or other bodies that are, in the opinion of the Minister, representative of citrus industry participants and substantially involved in the citrus industry.

7—Term and conditions of membership of selection committee

The first selection committee is disbanded once the relevant selections have been made.

8—Remuneration

The Minister is to determine allowances and expenses for members of the selection committee and these are to be paid out of the funds of the current Board or to be reimbursed out of the Citrus Industry Fund.

9—Procedures of selection committee

The procedures are similar to those that apply to a selection committee for the current Board.

10—Conflict of interest over appointments

Members are to disclose close associations with a person under consideration for nomination to the Board and members with close associations may not take part in relevant deliberations.

11—Validity of acts of selection committee

The usual provision for saving acts or proceedings despite a vacancy in membership is included.

12—When appointments to first Board take effect

The selection committee is to nominate members for appointment as set out in this Part. The appointments are to be made under the *Acts Interpretation Act* in anticipation of the commencement of section 7. The new Board is to take effect on the commencement of section 7.

13—Expiry of Part

This Part is to expire when section 7 commences.

Part 4—Temporary provisions

14—Conflict of interest

15—Immunity of persons engaged in administration of Act

16—Expiry of Part

This Part includes usual conflict of interest provisions and is designed to apply until relevant provisions of the *Public Sector Management Act* come into operation.

Ms CHAPMAN secured the adjournment of the debate.

STATUTES AMENDMENT (UNIVERSITIES) BILL

Adjourned debate on second reading.

(Continued from 4 May. Page 2514.)

Ms CHAPMAN (Bragg): This bill was introduced by the minister at the historic Mount Gambier sittings of this parliament on 4 May 2005, and there is good reason (to which I will refer in due course) why the bill now comes before the house with some urgency.

This bill is to effect amendments to the Flinders University of South Australia Act 1966, the University of Adelaide Act 1971 and the University of South Australia Act 1990, and I indicate that the opposition will support the bill. I would like to thank the minister, the staff of her office, and the advisers in her department for providing some initial briefing on the draft version of the bill when the matter was distributed for consideration in the last few months and then, more recently, yesterday for the opportunity—albeit, a brief one—to clarify matters that arose out of the amendments which culminated in the final bill, as introduced to the parliament on 4 May.

I wish also to place on record my appreciation to members of the universities' governance. I will not name them specifically other than to say that Dr David Klingberg, the

Hon. John von Doussa and Sir Eric Neal do a stirling job in their work as chancellors of the University of South Australia, the University of Adelaide and Flinders University respectively.

Independent submissions have been put to the opposition during the course of consultation on this bill and the development of the draft, and there are some matters to which I will refer and which have, I am pleased to see, been accommodated in the final bill presented to us. I will do so for two reasons: first, in the hope that it will not be necessary to raise some of these matters again in the future but to highlight the circumstances in which they were presented; and secondly, to identify where we do support the government's position—notwithstanding some objections to the same.

The minister, in her second reading contribution, set out that the primary purpose of this bill was in response to federal reforms in the higher education sector—in particular, sections 33 to 50 of the commonwealth Higher Education Support Act 2003. The Hon. Dr Brendan Nelson, federal minister for further education, has, in the past few years, tabled for discussion and announced very significant reforms for the benefit of the higher education sector. Coupled with that was considerable financial incentive to universities to both assist them in their support of the reforms and, importantly, assist them in the implementation of reforms—because there is no doubt that whenever reforms are introduced, especially when they are significant, they can come at some cost and often some disruption to the business of the organisation and its personnel.

The Australian government had announced a number of national protocols that would, and should, apply to the governance of our Australian universities. I think it is fair to say that, to their credit, in the past decade or so the three South Australian universities have considerably advanced their own governance reform, and to a large extent—certainly to a much larger extent than many other public universities across the country—this has seen them reach a standard where significant governance protocols are already complied with. In fact, during the last two years we debated significant reform of the University of Adelaide Act 1971 in this parliament that brought the university very much in line and made it somewhat of a leader in relation to implementation of national governance protocols. I think the former minister for education in this house had acknowledged that in the previous legislation that was introduced, particularly for that university.

Universities across Australia will have the benefit of growth funds from the enormous amount of money that has been placed on the table for higher education. So, not only will they receive increased funding but also there is a further growth fund provision which involves 2.5 per cent in the 2005 financial year, 5 per cent in 2006 and 7.5 per cent in 2007.

The catch, so to speak, with the new arrangements and the offer and advantage of the funding is that there needs to be some implementation on or before 31 August 2005. We know in this parliament that, apart from a few more days in this month which will be largely taken up with the implementation of the South Australian budget by this government, and meeting of this parliament for the purposes of estimate inquiries and committee hearings, there is little actual time available in the sittings of this parliament before that date expires, given that there will be a lengthy period in July and August when the parliament is not scheduled to sit at all. So, if the South Australian higher education community and, in particular, the three universities that are the subject of this bill are to achieve the benefits that are being offered at a federal level, it is necessary for this bill to be implemented immediately. Accordingly, it is necessary for us to debate this bill quickly, and whilst that has meant that advance and prompt consideration needs to be made of the bill, the government has facilitated consultations on this matter, and I appreciate that and record my appreciation of the same.

But what are the national governance protocols that are required to be complied with in the enabling legislation of each university? I think that it is important that we place on the record that the universities are controlled and operate under the clear authority of legislation of this parliament, although significant financial funding for them comes from the Australian government. I think that it is important that I place on the record that some financial assistance is paid to South Australian universities by the state government, and you may not be surprised to hear that that is millions of dollars. The sad fact is, though, that the universities pay it all back in payroll tax. So, the direct financial benefit that South Australian universities have from the state government evaporates when we look at the other side of the ledger.

The national governance protocols that are required by the university are really in two categories, those that are compulsory for the purposes of being eligible for the funds offered, and those that are recommended under national governance protocols but are not compulsory for the purposes of being eligible for the funding. The requisite protocols, which I think are important to note, include that each university must specify its objectives and functions within its own enabling legislation; second, that it must include the duties of the members of the governing body and the sanctions for the breach of these duties; third, to appoint or elect ad personum each council member, that is except for chancellor, vice-chancellor, and the presiding member of the academic board; fourth, it must incorporate best practice provisions in respect of council members activities including conflict of interest, good faith, duty relating to the use of due care, and diligence and conflict of interest; and fifth, to specify that councils can only remove a member for a breach of duty with a two-thirds majority. They are largely matters which, as I indicated, have been adopted and incorporated within the provisions of the University of Adelaide Act 1971, both in reforms during the previous government and, more recently, at the behest of the former minister for further education in this state.

There are two other important protocols which are in the recommended category, and which the government has appropriately included in this bill. First, to ensure that at least two council members have financial expertise and one has commercial expertise; and second, that there be a limitation on time served by a member of the council, and that is fixed to be at twelve years unless by resolution of the council. I will come back to the second one shortly but on balance they are recommended protocols which the opposition supports. There are also amendments in relation to the representation at the governance level, that is, of the council in relation to student representation. The presiding members of the students' association as ex officio members are to be removed. They currently have three representatives at the level of governance, and it is appropriate that that continues, and that it is incorporated in this bill.

Currently, the act requires that student associations be consulted in relation to representation on the council. The government has made the point in the light of the initiative at the federal level—that is, the legislation to be considered

by the federal parliament—to change the rules in relation to payments to student unions which, as we know, is currently compulsory—compulsory to the extent that you are not eligible to receive a degree or qualification and have your marks recorded for study undertaken unless and until the union fee is paid.

There has been much debate about this issue across the country over a number of years. I can recall even in the dim dark ages of my own attendance at two of the universities here in South Australia that these were issues on the agenda for consideration. However, the Australian government has determined that this is an issue which it will deal with at a federal level, and it has indicated its intention to open up this deadlock in relation to compulsory unionism. It has listened, I think importantly, to the thousands of students, particularly mature-aged students, who attend universities and who do not, or are unable to, avail themselves of some services provided by student associations and unions. Therefore, the Australian government has indicated that it will change the law in relation to this matter.

This government takes the view that in that event it is necessary for us to amend the legislation to accommodate the abolition of compulsory union student fees, essentially on the basis that associations may, or are unlikely to, change and that we need to have a mechanism by which students are, and continue to be, properly represented at the governance level of the universities. On the basis that we wish to ensure that that is secured, even though there are a number of presumptions that the state government makes in relation to the effect of a change of federal legislation on the question of student unions, while that may not transpire, as a matter of caution we accept that it is reasonable to secure the position in the event of that coming to fruition and, furthermore, that there be appropriate transitional provisions.

Indeed, the bill enables, through the transitional provisions, for current ex-officio students and graduate members to see out the remainder of their terms. That was a matter, I recall, that we debated in relation to the University of Adelaide bill a couple of years ago. There can always be complications in relation to how they can be effected, but what is important, in the end, is that there is appropriate representation of all the important stakeholders—I hate using that word, but it is an important word—with a valid interest in university governance. Clearly, that must include the students, the academic community and, of course, those vested with enormous financial responsibility from chancellor and vice chancellor down. It is important that careful consideration be given to ensure that we do not fracture the continued representation in those circumstances.

I am pleased to see that the federal department of education, according to the minister, has confirmed that the amendments (as presented in this bill) to impose the protocol obligations do comply, and, as a result of independent inquiry by the opposition, that appears to be the case. Of course, that is important. Otherwise, there is not much point in our proceeding with legislation if it will not have the desired effect.

A number of other matters have been incorporated in this legislation which are not imposed under the regime of protocol financial gain, as I have referred to it. Some of these amendments have emanated from the universities themselves. I think it is fair to say that the former minister for further education in the University of Adelaide Act considered a number of these matters. This relates to various aspects, including the protection of the names of universities. These are now international organisations, and it is important that at the time we dealt with the University of Adelaide Act and now, when dealing with the other two universities, they, too, should enjoy a number of the protections which were afforded the University of Adelaide in its legislation two years ago. I indicate that the government does support some of those initiatives.

There are a couple of aspects to which I wish to refer in relation to other matters that have been considered. When we dealt with the University of Adelaide legislation, the state government decided that it would impose in its legislation some rather draconian penalties which were to apply to members of the governing council of universities in the event that they were in breach of their duties; in particular, in relation to conflict of interest and acting in good faith. In those circumstances they would be fined or even imprisoned, and there would be a capacity, of course, to remove them from the board.

The councils of universities already have the power to remove their own members, and it was of concern to the opposition that we make sure that, when we introduce amendments to the governance of the councils of universities, we do not act in such a manner that effectively frightens off the good men and women who come forward to undertake, on a voluntary basis, work in service of the councils and the myriad other duties that flow to councillors, particularly the chancellors of universities, both in chairing committee work and in undertaking attendance at many of the functions of universities. It is more than simply people who volunteer their expertise and wisdom for the benefit of a university: it entails many more functions and duties than simply attending meetings.

It is very important, and the government has accepted this in this legislation that, whilst there was an indication by the previous minister that that is something the government would like to impose on the two remaining public universities in South Australia, the government agreed to amendments in the previous act, and I am very pleased to see that this minister has not attempted to introduce it in this legislation. However, two other aspects did cause some concern, and I raise them for the record to ensure that the position of the opposition is very clear and that, should any attempt be made to introduce them again, they will be strongly opposed.

I should place on the record my appreciation to the minister for having listened to the opposition's position on these matters and accommodated that in the bill now before the house. One is the delegation power. There is much in previous debates on the University of Adelaide bill, and I will not traverse those matters again: they are on the record. However, in the draft of this bill there was an attempt again to introduce delegation powers, which effectively means that the council, rather than determining matters as a full council, has the power to delegate decision-making to committees. With any board or council there are certain acts to be done by individuals, one of the more common being that the vice-chancellor is annually authorised to sign the annual accounts for and on behalf of the university. That is ultimately presented as a document to the minister and tabled in this house.

It is important that we understand here that when we talk about delegation of power we are not talking about the power for the board to instruct a particular officer to carry out a specific duty. But an attempt had been made again to have a power of delegation, with the requirement that it be in writing and able to be withdrawn, and so on, but nevertheless a power

of delegation of decision-making. That is not acceptable to the opposition. It has not been in the past and, whilst I cannot say that it never will be, it is a fundamental principle in relation to people undertaking responsibility in this area of governance, where they are dealing with millions of dollars of taxpayers' funds, that they are fully accountable and we do not set up structures that can accommodate and facilitate those who may not always be acting in the best interests of the full council.

The full council should be seized of this responsibility and seized of it at all times. So, the delegation power to committee has not seen the light of day in this final bill, and we are very pleased about that. The second matter is the accountability of the university itself. A number of procedures already in the legislation require the provision of annual reports and permission to be obtained in various aspects of the universities, which have always included matters such as the sale of land and the like. Whilst some of those areas of responsibility have been loosened in relation to the obligations to be carried out, these universities that were set up by this parliament, some of them in more recent decades although the University of Adelaide goes back over a century, are directly accountable to the Governor.

The legislation makes that very clear. That essentially means that the universities are accountable to the whole of the cabinet, to the Executive Government. There has been a move in the drafts of this legislation to change that so that the universities are accountable only to the minister. That was a matter that raised concern with members of the opposition, and again I am pleased to record my appreciation to the minister for ensuring that in this bill before us the proposed change of accountability has been removed and that accountability for each of the three universities is to be to the Governor. That is a matter that is very important for the independence of the universities.

Much debate has been held in the public arena in relation to the universities and their independence of governments. That has included their independence of the Australian government and the federal minister but, equally, it is important that, for as long as we have the responsibility and jurisdiction in this parliament, the universities be accountable to the Governor. Associated with that is the continued requirement for the production of annual reports, not just to this parliament, and also the capacity of the Auditor-General to supervise the operation of the universities. They are very important aspects.

I want to speak about two aspects in relation to the optional reforms. One is what is known as the 12-year rule. This is a recommendation from the federal minister's department under the national governance protocols and, essentially, it means that we remove longstanding members of council who might stay on beyond their useful date. It is not a new concept: it is one that a number of organisations apply. It works on the principle, I think, that, unless one reinvigorates councils, boards or leading committees of organisations and ensures that new blood comes into the hierarchy, it makes it difficult for one's organisation (or institution in this case) to advance, to remain contemporary and to be able to be refreshed with the ideas of the time. So, there is a good argument for people not to hold positions of office or not to remain as members of councils and boards for a long time.

The flip side of that, of course, is that one can lose the extraordinary experience, commitment and dedication of long serving members of councils. It is not uncommon for some positions to be limited to, say, only three, five or six years. In this bill the government has made provision, consistent with the national protocols, for 12 years. After some consideration, on balance, the opposition supports this provision. As I said, it is not critical for the purposes of our state universities qualifying for funding but, on balance, we think it is desirable.

However, the loss of experience and the loss of dedicated members would be evident, and in this respect I refer to the University of Adelaide, for example, where people have served for periods beyond what is now to be the limitation—people such as Sir Langdon Bonython, who is well known to this parliament for his service to the university. Also, if it was not for his £100 000 pounds, the Legislative Council would still be sitting in the old chamber because, of course, it would not have the magnificent facility that those funds were spent on to build the other half of Parliament House. So, we know of his contribution to the parliament here and, therefore, to the people of South Australia. Also, Sir Langdon was also a very long-serving member of the University of Adelaide Council.

I also include Sir William Bragg. Not only is he a Nobel prize winner but also, of course, I am very pleased and proud to say that it is his surname that is recognised, along with Sir Lawrence Bragg, as dual Nobel prize winners, in the electorate of Bragg, as we move to the recognition of important South Australians in the names of our electorates. Dr Helen Mayo, Sir Samuel Way, Dr John Bray, Mr Sam Jacobs, Dame Roma Mitchell and Sir Mellis Napier, to name just a few, are some of the people whose benefit we would have lost; their names speak volumes in the contributions they have made to public institutions in this state, let alone in many other fields.

I think we need to appreciate that, when we introduce these rules, which we see as having some expedient, contemporary, important and refreshing aspect of the institutions we run, we also need to understand that it does have a downside. We can only hope that, when we introduce these sorts of rules we ensure that, if possible, we do not lose sight of the valuable contribution that these people make to the South Australian community and that we encourage them to go on and make contributions in other ways. However, we must understand that that is a loss we are implementing.

The second aspect I raise is the recognition of the degrees that are issued by the universities. At the moment, one can receive a degree from the University of Adelaide, the University of South Australia or Flinders University, and it is duly signed by the chancellor in the subject that an undergraduate takes. Already we have a situation (which is a sign of the times) where a student of one university may undertake a course at another university: a student who might be undertaking a degree course as an undergraduate at the University of Adelaide may elect and be able to undertake a particular subject or tuition at one of the other universities. However, the university that issues the degree is the University of Adelaide—subject, of course, to the qualifying standards. That is an important aspect that is available to our students, especially if universities of the future look in many ways to specialise in the sort of work they do.

There is no doubt that universities have to consider whether they are truly capable of being able to afford to provide a high standard of tuition and study for students in a broad spectrum of curriculum and degree opportunities—and, of course, postgraduate work and broad areas of research. In the international competition between universi-

ties, undoubtedly we are moving towards (and have done so for some decades) universities identifying particular areas of interest, whether it be in research or academia, or in specialist fields in academia, that they see as advancing the name of the university. That is to be applauded, but it means that, at times, a student undertaking a degree at one university may benefit significantly by having access to another university for that purpose.

Likewise, there are a number of other institutions which provide academic training or opportunities for research—all of which, of course, nourish the rich diversity of curriculum available. These institutions are not always universities. They may be a training college (a TAFE), a registered training organisation, or a specialist school within such an institution which can provide some additional benefit to the training of a student. One example I was given—and I hope I have this right—is that the University of South Australia can provide a degree in food technology but it can be of benefit to the student if they are able to undertake some of their tuition or practical application at the cordon bleu school, which is not actually directly attached to the university but I think is based within the precincts of Regency TAFE. I am not sure how its funding sits with that but, nevertheless, it is a recognised school. It was a tremendous initiative, introduced I think by minister Buckby, and ultimately supported in continuing its work by this government. It has an international reputation—deservedly—and, under the reforms proposed in this bill, as I understand it, that institution also will be recognised in effectively jointly issuing the degree. So in the example I have indicated, the degree in food technology will be from the University of South Australia and the cordon bleu school.

The only matter that I raise in relation to this is the question of standard. I am comforted by the fact that this is available to universities as an option—that is, it is not something that is imposed on them—so that if they have a student who uses the services or facilities of another institution they are not required to join in the offering of a degree. It seems that this is within the control of the university, but I would like the assurance of the minister that that is the case. The concern the opposition has in the short time it has had to consider this is that the standards and qualities that apply to universities are high, and for good reason. You do not and are not permitted to have the use of the word 'university' in the name of your institution without satisfying a high level of quality control under national requirements. No-one, I think, would want that to be otherwise. We want to secure that that high standard is protected and quarantined against those who might bring it down by exercising a lower standard. That, by no means, reflects on the cordon bleu school that I have referred to: I do not wish in any way to suggest that. What I do say is that, as best I understand it, there are different rules and regulations that control the quality in relation to other levels of training and other academic institutions that are not universities, and we would be concerned to ensure that there is no diminution in the standards that apply that would therefore weaken the value of the degrees issued by our three universities.

At a broader level, I would hope that we are to receive some indication from the Treasurer on Thursday as to what financial support he will give to the three universities, because they will need to accommodate these reforms. As I have said before, the substantial financial provision for universities comes from the Australian government. There is a large amount of extra money on the table. Universities themselves generate significant funds, both in research grants and from the Higher Education Contribution Scheme, but precious little actually comes from the state government on a net basis. That is because, as I have said, what it hands over in grants is, almost to the dollar, handed back in payroll tax particularly—not to mention all of the other stamp duties and things that, of course, apply.

So I would hope that the South Australian government and, in particular, the Treasurer, this Thursday will be a little more generous in relation to state universities. I raise this particularly because of the Premier's advance announcement of the government's commitment of $20 million to the proposed establishment of a private university (the Carnegie Mellon University) in the Torrens Building in Victoria Square. That is a lot of money, and I have no doubt that many members will take the view that it could be given to other priorities.

I make it quite clear that the opposition has no objection to—indeed, it would welcome—the introduction of private universities in this state. There is the University of Notre Dame in Western Australia and the University of Bonn in Queensland—there are a number of examples of private education facilities in this country which are excellent—but we have three public universities in South Australia, and in its report the Economic Development Board recommended that that they should operate under a Higher Education Council. This government has implemented that recommendation on the basis that there be cooperation, collaboration and the like between our universities.

Whilst the universities have indicated to me that they considered prior to the introduction of this council that they did work on a collaborative basis, this is a structural reform on which the government was prepared to follow through. I think it is important when we are talking about the governance of universities—as we are in this bill—that the parliament be informed how the new Carnegie Mellon University will fit into the structure of the Higher Education Council. We need to get some answers from the government about how this will operate.

So, before the Premier goes off on flurries like this, announcing the spending of millions of dollars for the direct benefit of 75 fee-paying students at a private university, I suggest that he put the case to South Australians. Hopefully, we will hear something from the Treasurer on this on Thursday to explain why it is appropriate that $20 million worth of taxpayers' funds should go to establishing a proposed Carnegie Mellon campus in South Australia when all of the courses that that university offers (including courses in public sector management, which of course provide training in management skills for public servants—I am not critical of that per se, but it relates to IT courses) are available at our existing universities.

There is a good argument for the government to put funding into services which we may not already have, but when all of these services are available in South Australia through our existing universities and when there is no indication of there being any shortage in their provision, I think the Premier has a long way to go (either himself or through his Treasurer) to satisfy South Australia of the benefits of having this university here. The situation would be different if this proposed university were to provide for areas of high demand where there is a clear-cut need: areas such as construction, mining, the trades, nursing, teaching, or the medical profession. We have nearly 2 000 students a year applying for the undergraduate degree in medicine at the University of Adelaide alone, and there are only 98 places

available at that university. So, this is clearly an area of demand, and I suggest there is a case for having a private university to fill this deficiency.

To the best of my knowledge, in the announcements made by the Premier, to date, there has been no indication of the provision of specialised study in areas of skill shortage or high demand which would be beneficial for the future of South Australia. So, I think the government has failed to put its case in that respect. However, I will be pleased to listen to the minister and hear how she sees the new university will fit in with the existing structure. I think it is necessary for the minister to tell the house what use the new university will make of other facilities such as the National Wine Centre, which is now run by the University of Adelaide under a 40-year lease.

Mr Hamilton-Smith: A very good deal.

Ms CHAPMAN: Yes, a very good deal. The University of Adelaide has the benefit of this magnificent facility in which public funds have been invested, and I have no doubt that the University of Adelaide is pleased to avail itself of its services, but it has also made a commitment (which has been recorded in debate in this house and in press statements) that, in relation to the use of this facility for its students, it has a responsibility to the wine industry (under the lease and the terms of agreement which have been endorsed by this parliament) to allow other universities, schools and institutions to avail themselves of the use of this facility. So, again I ask: where does this new university fit into that?

I also want a final assurance from the government in relation to the sale of property. The reform of the University of Adelaide Act enabled the university to sell off parcels of real property without the direct permission of this government or endorsement by the parliament. Remember, we have moved away from direct accountability to parliament to the government, and we are watering down, I suppose, the processes by which universities can buy and sell real estate and encumber it. Therefore, I would want some assurance from the minister that there is nothing proposed in this legislation which will weaken that. I well remember the debates we had with the University of Adelaide when all of the real estate owned by the university was identified, and there were clearly campuses that the University of Adelaide operated from, including the Waite and Roseworthy campuses and a number of field properties it owned and operated from. At the 11th hour of that legislation we found that there was an error in relation to the assets that were owned insofar as the legislation had not properly covered that, and that we were effectively going to be passing legislation that would be contrary to certain trusts that had been established. So it is very important that we are very clear about what the universities' powers are going to be.

One of the important reasons that we have these mechanisms of authority and consent being required at higher levels is to ensure that we protect the integrity of the institutions and the assets that they have been vested with, some of which, of course, have been as a direct result of being beneficiaries of trusts that have been bequeathed to the universities. It is incumbent upon the parliament to ensure that the government is very clear in its assurance that this will not be something that is transgressed in this legislation. With those words, I indicate to the house that the opposition will support the bill.

Mr HAMILTON-SMITH (Waite): I rise to support the bill, but I intend to make some remarks about the overarching intent of the bill. It is clearly part of a national program of moving forward. It seeks to amend the Flinders University, Adelaide University and the University of South Australia acts, partly in response to federal reforms at the higher education sector. I note that the receipt of growth funds from the commonwealth is contingent upon the implementation of these national governance protocols, so we are really in a process of coordination between the state and the commonwealth. To avoid significant disadvantage, I understand that this act must be in place by 31 August 2005.

The protocols will require the enabling legislation in each university to specify the university's objectives and functions; include the duties of the members of the governing council and sanctions for breach; appoint or elect in personam each council member, except chancellor, vice-chancellor and presiding member of the academic board; incorporate best practice provisions such as conflict of interest, good faith, etc; and specify that councils can only remove a member with a two thirds majority. I suppose one could take the view that these arrangements constitute a form of red tape. It might be perceived as a form of red tape—regulatory hurdles over which universities must jump. Others might see these arrangements as a great step forward in simplifying the red tape that is already there. I will come back to the point, because I think it is important in respect of the Carnegie Mellon initiative on the basis of competitive neutrality and equity. I would be interested to see the regulatory arrangements in regard to Carnegie Mellon and a possible fifth university when those initiatives are brought before the house. There will be an issue if there are separate arrangements for the three South Australian universities, as distinct from the two private, internationally based universities. I will come back to that point in a moment.

I note that the bill additionally provides for two national protocols recommended but not required, they being that at least two council members have financial expertise and one have commercial expertise, and that there be a limitation on time served by member of the council of 12 years unless by resolution of the council. The bill removes presiding members of students' associations and ex officio members, but their representation remains (I think it is three people), and my friend the member for Bragg has covered that most appropriately in her address. Currently, the act requires the student associations to be consulted in relation to the representation on the council. It is claimed that, with the abolition of compulsory student union fees, unions may close, but I am not so sure that will happen. These are transitional provisions in the bill. I am sure that the world as we know it will not end, and that this bill will find fertile ground and a still thriving and vibrant university sector as it comes into force. There are other amendments included in this bill that I understand are being sought by the university such as protection of titles. These essentially bring Flinders University and the University of South Australia in line with amendments made to the University of Adelaide Act in 2003. All of that is good, and I understand that there has been sound consultation.

My concern with the bill is perhaps what it does not say, rather than what it says. I am really speaking from the viewpoint of the shadow minister for innovation and science and also as the shadow minister for economic development. I really think that the three universities are an important economic engine room for this state and an important centre of innovation and excellence, as well as being places of learning. I think this is a distinction which we in South Australia need to make and of which we need to constantly

remind ourselves. These are not just teaching universities—these are places where higher degrees are studied and where research is focused. These are resources that industry can draw upon to excel.

There was talk this morning, at the launch of the last pitch for the air warfare destroyer project, about how important the Carnegie Mellon initiative would be to the development of the necessary skills required for the high-tech construction methods and capabilities which would go into the air warfare destroyer and which already go into the submarine. But there was no mention by the Premier this morning of the role of our own three universities in providing those very same skills and that very same expertise to such industries. I think the bill would therefore have benefited from touching on some of these other areas that are so important to the development of our economy and the training of people. Perhaps the bill was never intended to go that far—but perhaps it should.

I move to the issue of Carnegie Mellon and the touted possible fifth university—which, I understand, might be a European-based international university—and I reflect on those government initiatives in the light of this bill. My first point, which I alluded to earlier, is whether the regulatory requirements contained in this bill will be applied to the new universities when they arrive. For example, there are requirements here not only about things such as logos, official titles and the proprietary interests of universities but also about what may be perceived to be red tape regulatory arrangements in regard to the appointment of chancellors and vice-chancellors and the duty of council members. There is, for example, under section 18A the duty of council members to exercise care and diligence, under section 18B the duty of council members to act in good faith, and under section 18C the duty of council members to act with respect to conflict of interest. It goes on.

All those objects of the act are commendable, but I hope that when the Carnegie Mellon legislation comes forward, as well as any other legislation that might deal with private universities, they are either required to meet the same regulatory imposts or that we revisit the regulatory imposts provided in this bill to provide a level playing field. I am a Liberal; I do not like regulations. My view is that the fewer regulations you have in life the better, and that is why I welcome the private university initiative of Carnegie Mellon. I think it is terrific. The less red tape we have the more you give businesses and universities their head to get on and do what they do so well even better. I am a little cautious about some of the measures in this bill, but the universities have been consulted on them and they have been agreed to. However, I just flag the need for a level playing field once these two new private universities arrive. That will be important because I think Carnegie Mellon will compete for business with our other three universities—it is a highly competitive sector.

I understand that Carnegie Mellon will focus on PhD and post-graduate studies. This is quite a lucrative area for our three universities not only in respect of teaching and revenues but also because there is a growing tendency—one that I very much welcome—for university post-graduate research to be tied together with industry, and there are some very good examples of this. For instance, I visited a company called DSpace located at Technology Park which had entered into an arrangement with the University of South Australia whereby PhD students would conduct research on behalf of the company and the company would, in turn, not only fund the university but also help fund the private studies of those PhD students. There was a reciprocation: the company sought intellectual property and research and the PhD students and the university sought some financial benefit.

I see some enormous advantages in these arrangements not only because they benefit the students, the university and the company but also because they establish linkages between business and our centres of excellence—in this instance, the three universities. If we have smart, innovative businesses in this state that very much rely upon our universities and other centres of excellence—like DSTO, CRCs and various other outposts of excellence within the community—for their intellectual property then, as those companies grow and move towards IPO or a trade float or a market sale, as their turnover gets to a point where they become attractive to venture capital and they reach the growth point where they need to go to the next stage, the acquiring entity or the sharemarket is likely to take the view that the company needs to stay in Adelaide because it is so interconnected and so dependent upon the universities and the CRCs that it cannot pick it up and move it to California or Sydney. In fact, its R&D and intellectual property foundation is hinged hip to hip with South Australian universities and institutions.

From a purely parochial, South Australian point of view I think those sorts of arrangements are very fruitful. I therefore ask why the government is so anxious to commit $20 million to Carnegie Mellon when it does not seem to be quite so willing, perhaps, to possibly provide an equivalent amount of money to each of our three universities to help them better set up their brand and position in the Australian and international market.

I take the point raised by my friend, and I note the minister's address in her second reading explanation. Our universities are important but they are competing in an international market. In fact, they are going forth and setting up overseas. In May last year I visited Singapore and looked at the University of Adelaide's operations there, and it was most interesting. The university is competing with a range of US and European-based universities such as Carnegie Mellon, Harvard, INSEAD, and there are many others, all set up in Singapore competing for the Asian customer and, increasingly, for the Chinese customer. Not only the University of Adelaide but also other Australian universities, such as the University of New South Wales (which, I understand, is establishing a full faculty in Singapore), are competing with well renowned brands like Carnegie Mellon, and they are trying to attract students alongside these very highly recognised brands. I realised that, like any business or enterprise, it is largely about branding and reputation: it is about rankings.

The Premier has made much of the fact that Carnegie Mellon is ranked very highly in the United States in a range of specific high-tech related fields, and that is good. But would it not be a good object for South Australia to have its own three universities so highly ranked in a range of fields where we have expertise? We know that we have outstanding expertise in the medical sciences in plant functional genomics, and in certain of the defence sector industries. There is a multitude of areas where we are at the front of the pack when it comes to the standard that we are producing. My friend mentioned earlier our well recognised ancestors, Nobel Prize laureates and other distinguished academics who have been produced from our own universities and have been widely internationally acclaimed.

Should we not be producing another generation of Nobel laureates? Should we not be producing three locally branded

universities that, on the national and international stage, are ranked extraordinarily highly? That is difficult when you look at the numbers of students at our three universities; they are not big universities, even on a national scale, let alone on an international scale. The University of Adelaide, I think, has 17 700 students, the University of SA has about 28 000 and Flinders University has about 13 000 to 14 000 students. They are not big universities but, in certain fields, in certain areas of expertise, they can be internationally significant.

I would like to see—though I welcome this Carnegie Mellon initiative, and I will be very interested to see whether a fifth initiative emerges—an investment by the state government, by the state taxpayer, in our three home-grown universities to help them raise their brands, raise their profiles and raise their status nationally and internationally so that they can not only attract students based on a sound reputation but also develop the linkages with key industries from the basis of a university that has an international reputation.

There is something about the Carnegie Mellon initiative—though I welcome it, as a I say—which has a certain cultural cringe component to it. It is almost as if the Premier has rushed off and tried to buy in a brand—to buy in a big international name to make Adelaide look good. I know that it has had a lot of media attention—and I know that the Premier loves that sort of thing—and it gives us the impression that we are going forward. But we have been through similar with the wine industry. We produce some of the best wines in the world: why do we need to pay three times as much for a French wine, just because it is a French wine? It is that cultural cringe that says that, because it is French, it must be better than our wine. Well, I do not subscribe to that, and I do not necessarily subscribe to the view that Carnegie Mellon is going to produce an output which is so remarkably superior to the output of our own three universities that we will all be astounded.

I also recognise, having seen it first hand—and I admit to being an alumni of the University of Adelaide and the University of New South Wales—and having visited a multitude of universities overseas, that it is a big business: universities are big business. This will not be Carnegie Mellon's only operation internationally: it has several, as many foreign-based universities have. It is big business, and we are giving Carnegie Mellon a $20 million heads-up to get its business going in this state. And it will compete with three home-grown universities.

For all those reasons, I flag some concerns. I would like to see a more articulate explanation from the government of its vision for the development of our university sector. I noted the media coverage on 19 May, and *The Advertiser* coverage again on 17 May, of the Carnegie Mellon initiative and the possible fifth university. There was talk of Adelaide being a university village and it was said that that will reinvigorate the centre of Adelaide, a few old buildings and so on. Well, all of that is fine and dandy, but I hope that our vision for a reputation that is based upon the fine quality and standing of our universities includes our own three home-grown universities, and I hope we invest in them too.

I commend the bill and I will be supporting it, but I flag to the minister my concern about the level playing field. I believe that more needs to be done. Whether it is legislative or in the form of policy and funding, we need something there for our three universities that goes beyond the scope of this bill and provides a tangible outcome not only for the universities but also for the state of South Australia.

The Hon. S.W. KEY (Minister for Employment, Training and Further Education): I thank the member for Bragg for her very thorough contribution, and also the member for Waite for his position to ensure that we have some vision for higher education, as well as looking to the future and making sure that we have a level playing field. Some of the questions raised by the member for Bragg have been answered in some information I have just supplied in relation to the conferring of awards. I will not cover those areas, because there has been a lot of discussion behind the scenes with regard to the amendments.

I want to raise a couple of points. First, I remind the member for Waite, in particular, that the red tape and proposals put forward in this legislation mirror the wishes of the federal government. If the honourable member would like to take up some of these issues of red tape and protocol, I ask him to speak to the federal government, particularly the federal minister, about the necessity to take up some of the provisions that the federal government has required of us. The members for Waite and Bragg, quite rightly, have identified that considerable resources and funding are attached to our ensuring that we support that legislation. I make that point again.

I feel reassured that the auditing, which happens through the Australian Universities Quality Agency, will continue. I do not share the views raised by the member for Bragg with regard to quality. I think that is an area where we do very well and, having had the opportunity to make international comparisons, I think that Australia is certainly at the forefront of those areas. I reassure the member for Waite that I, too, appreciate the three universities that we already have in South Australia. I would be very keen to ensure as much as possible that there is a level playing field, as he calls it, in order to ensure not only that our three universities know that we appreciate their efforts but also that they continue to flourish. I think he and I share the same point of view in that area.

The member for Bragg did raise issues about compulsory student unions. I will try to be as restrained as possible in my comments in that area, because I do not think it helps to go against the spirit of cooperation and the interests of and the homework done by the member for Bragg with regard to the whole higher education sector.

I have a couple of points to make. I refer the house to a debate which we had on Thursday 27 May 1999 and which was led by the then shadow minister, the member for Taylor. In part of her contribution, that honourable member read out a letter from the then acting premier (Hon. Rob Kerin), who wrote to one of the student associations in South Australia. He thanked the Vice President/VSU Liaison Officer, Adelaide University Union, for his letter of 15 March 1999 regarding voluntary student unionism legislation. The letter states:

> As you are aware, the commonwealth has introduced legislation to prevent compulsory student union fee collection at universities. A Senate inquiry into the proposed bill, expected to commence on May 7, 1999, will provide an opportunity for wide consultation and consideration of all these issues. At this stage—

and I do underline that the honourable member has qualified his point—

> the South Australian government is not proposing to introduce such legislation and will continue to involve the interests of the stakeholders.
>
> This government has a commitment to ensuring that the South Australian university programs and students are not disadvantaged. We recognise the valuable contribution that student organisations

make to academic studies and the services which are provided for the benefit of all students.

The letter was signed by Rob Kerin, acting premier, and is dated 5 May 1999. That debate continued for a number of sessions in private members' time. It is a shame that the member for Waite is not present in the chamber, but I remember his contribution to that debate. I was waiting for him to make comments about voluntary student unionism, but he did not do so at this stage. I guess he showed what a statesperson he is by sticking to the legislation in hand.

The honourable member did make a number of qualifications. He identified himself as the only member in the chamber at the time who was also a member of a student union. He outlined that, although he did not necessarily want to be a member of a student union, he was compelled to do so. In response to the member for Taylor, he said:

> If we dig deeper than the surface on this, we find that all members on this side of this house would be more than happy to support the provision of these services to students and would be more than happy to recognise that there would be a need to raise some sort of levy or fund upon the students in order to ensure those services were made available. Our objection involves the term 'student union'.

His argument did recognise the many services provided through the student services fee. I will not prolong the debate, but it is worth quoting from the contribution made on the same date by our Speaker (the member for Fisher). He said:

> . . . compulsory—taxes and council rates—and I have often used the analogy with council rates concerning what you have to pay when you are a student at university. People who say that university union membership should be optional need to have an argument in terms of people accessing cafeterias and facilities like that, just as people would have to have a strong argument in relation to local government in bringing in user pays for library and similar services.

While I am mentioning libraries, the member for Bragg made the comment that she thought it unfortunate that not paying your student services fees meant that it would be very difficult for you to be awarded your degree or award at the end of an individual course. I remind her that it is my understanding that if you do not pay your library fines you are in the same situation, that you are unlikely to be awarded your degree or award.

Ms Chapman: And parking fines.

The Hon. S.W. KEY: And parking fines, yes, so there are a number of reasons why you do not get your award by not paying your way. The other thing that the member for Fisher had to say on that day, which I thought very interesting and is something that I still think is relevant, is this:

> My own position is consistent. I do not believe the case for voluntary student unionism has been made by anyone and I believe, in terms of federal politics, a few people are fighting battles of 20 years ago, fighting on the battlefields of Monash, against Che Guevara and Castro, neither of whom have much significance in terms of Australian politics today. It is time for some federal MPs to take a big breath and relax in their recliner chairs and think about their days at Monash, but not get motivated by them—

Having known Peter Costello in his student days, I know of his membership not only of the Labor Club at Monash but also being involved in student politics, as was I, except that I think it is 30 years ago rather than 20 years ago that we discussed all these issues. The other contribution of 10 June, which was instructive, was that of the member for Unley, Mark Brindal. Although he does talk very much about governance issues, particularly to do with student bodies and the need for transparency and for student representatives in particular to be accountable, he says:

> . . . while I am not opposed to student affiliations, I do believe that those affiliations should be absolutely transparent and accountable. I make no apology for saying that: it is the students' money and the students have an absolute right to see that money applied in a transparent and accountable way. If the shadow minister says that it is transparent and accountable, fine. In my time on the University of South Australia Council I saw a number of instances where I do not think it was transparent enough or that those people were accountable enough.

So, part of his argument was not so much against student unionism but as to whether that was the best way to look after the welfare of students in that council. In his summary and also responding, I suspect, to a few interjections, the member for Unley said:

> . . . 'Yes.' I do not have an argument against an association of students. I think there are some things wrong with the way it is done, and I am putting those on record. I think there are some things they can improve and, as Minister for Youth [as he then was], I am putting those on record. However, I am not opposed to their forming associations. I would rather, as I have said, see the university pick up the whole bill and give it to the students to apply in a way where they retain some autonomy, but I realise that is an impractical suggestion in a world where university finances are constrained. However, I would urge the unions to look at social justice as an issue for themselves and for their students within the student body.

He goes on to talk about how he thinks it is important for every student and every person in this country to have equal access to education and that barriers that are put in place to stop particularly disadvantaged groups settling into our tertiary education system obviously need to be outlawed. His final words are:

> I am saying that the student union itself can play a part in this process—as should this government [the Kerin government], as should the federal government and as should every university council.

They are some of the pearls from the past. There are a number of others but I will not delay the house by going into more detail. There are two last points I would like to make. The first is that I have been approached by a number of students, particularly international students, who are very concerned about the debate that has been raised with regard to student associations and services and have publicly raised a number of times the problems they see, particularly as students who have come from overseas, in not having those services in place. I think that is an argument that we do need to take on board, particularly when we are trying to encourage as many international students as possible to South Australia, whether it be to university, TAFE or in the general education system.

I think we do need to think about the views of international students, not to mention the views of local students. One of the articles that really did concern me was a recent higher education supplement of Wednesday 4 May in *The Australian*. The article was by Greg Harris, who talked about the connection with VSU undermining, in his view, government health initiatives and damaging infrastructure. He talks about the potentially difficult effects on university sport and voluntary student unionism, because he believes there is a real connection between the ability of people to participate in sports organisations, particularly university sports organisations, and our excellence in this area. He also says that not only are students the only community members who have a stake in this but it may surprise us to learn that almost 500 000 Australians from Olympians to schoolchildren use university sport and leisure facilities.

Half the members of the Sydney University Sports and Aquatic Centre are from the non-student community. He went

on to say that, in regional centres such as Armidale, the University of New England's facilities are also crucial for the local sporting scene, and I think we can translate that point not only generally with regard to sport and recreation but also in the regional areas, particularly those such as Whyalla, where, as I understand it, there is a definite connection between access to facilities and the university sector in the sports area. As I said, I did not particularly want to run an argument on the compulsory student union area, because that is not really what this bill is about—directly, anyway. However, obviously, there is an underlying vision with regard to the federal government about what should or should not happen with respect to, as it calls them, student unions.

I would like to thank the member for Bragg, in particular, for her contribution and also the member for Waite. I think it is appropriate that the members of this house try to work together as much as possible on areas that are of great importance to South Australia. My vision is for South Australia to be seen as an international education destination, as well as a destination for a whole lot of other matters, and I think the points that were raised about Carnegie Mellon by the member for Waite, in particular, are short-sighted. Once we finish the process of assessing whether Carnegie Mellon, through the university protocols we have, should be accredited and located in South Australia, I will be more than happy to provide an extensive briefing on that matter to whomever in this house is interested in what we see as the merits of Carnegie Mellon. However, as I said, at the moment I am involved (as is the minister) in the process of assessing that application, so I think it is probably inappropriate for me to talk about the advice and the assessment I am about to receive.

I agree with the sentiment expressed by the member for Bragg and the member for Waite that we need to value our three current universities—and we do—and also to make sure that there is fairness about the way in which higher education operates in this state.

Bill read a second time.

In committee.

Clauses 1 to 13 passed.

Clause 14.

Ms CHAPMAN: This is the first clause that deals with the question of conferring awards with other institutions, which is under part 2 for the Flinders University of South Australia, although I will address my question to all three universities. This is the initiative to enable a university to have the power to confer academic awards, including to another university, to a registered trainee organisation or to another body specified in the regulations under subsection (4). A registered training organisation is defined in this section as being registered under the Training and Skills Development Act 2003. However, there are similar provisions in this bill for the other universities. I will not repeat what I said, but in the opposition's contribution I raised the question of, I suppose, the security of the integrity of the degrees that are issued under this joint badging or allowing the conferring of awards between universities and the joint conferral with other registered training organisations or other bodies covered by regulation.

I appreciate that the minister has provided some information in relation to this matter, and I have viewed a summary document that was prepared; also, some information was given to me over the phone about this issue. So, I will place on the record my understanding of the position. Firstly, as I think I said during the second reading stage, universities can jointly recognise each other. I have no issue with that, and that has been the case in the past. I suppose the real issue here is whether this is a process where we allow a university to jointly confer with a registered training organisation, or another body that has the regulation safeguard, and expose it to the risk that it will enter a joint enterprise in this way with a disreputable organisation, one that is found at a later date not to be of the standard that is under the direct control of the university.

On the face of it, on the information provided, there are relationships with other professional bodies and institutions and universities, but at this stage there is not the joint conferring: in other words, the universities have control of the situation. They can cherry pick amongst other services and organisations, and, hopefully, that adds to the enhancement of the value of the degree that is being offered through the university.

The registered training organisations, I think, have assurance procedures through the Training and Skills Development Act that do not raise a lot of concern with me. Any other body, provided that it gets through the regulations, is approved. To this end, the information that has been given to me is that, at least by the regulation process, there is a vetting by both the Department of Further Education, Employment, Science and Technology, cabinet, the Governor (I suppose that is independent) and the parliament before they can be allowed.

In regard to the 'other body' specified in the regulations, do we have the minister's assurance that if the name of another body is put up, rather than as a bald regulation, some information will be given to parliament as to its history, status and origin, and the supervision within that body? That would give information to whomever has the responsibility—which, in theory, is everyone here in the parliament—so that they can be properly informed and be in a position to raise questions about that organisation to ensure that we do not have the situation where an organisation slips through the system, so to speak, and then enjoys the status of one of our universities and ultimately corrupts the reputation of our universities and the status of the degrees that they issue. Can I have some assurance from the minister that that will be the case?

The Hon. S.W. KEY: I thank the member for Bragg for those questions. I confirm that we have ensured that the shadow minister has information with regard to conferring of awards, and I think the member has indicated that the questions she raised have been answered.

With regard to joint badging, my understanding is that only the university council can apply to the Governor to make a regulation to allow a university to offer a course jointly with another body that is not a university or a registered training organisation. As the member has already said, there is obviously a responsibility on all of us, but particularly on the university itself, to ensure that quality and standards are maintained.

I am happy to give the honourable member an assurance with regard to any proposals of which I am advised, but I qualify that by saying that, of course, in some cases there would be commercial reasons for a university's wanting to move quickly, and also that, as a state government, we would not want to be seen to be holding up a process. But, as far as I am concerned, if I have information that is available, I am more than happy to share that with the shadow minister wherever possible, with the qualification that sometimes it may be beyond my control.

Clause passed.

Clauses 15 to 22 passed.

Clause 23.

The Hon. S.W. KEY: I move:

Page 12, after line 38—
After subclause (4) insert:
(5) Section 12(8) to (12)—delete subsections (8) to (12) (inclusive)

Amendment carried; clause as amended passed.

Remaining clauses (24 to 46), schedule and title passed.

Bill reported with amendments.

The Hon. S.W. KEY (Minister for Employment, Training and Further Education): I move:

That this bill be now read a third time.

I take this opportunity to thank particularly the staff in the higher education unit and my staff, along with the shadow minister, for assisting us in a speedy resolution of what are quite complex proposals put forward by the federal government.

Bill read a third time and passed.

EDUCATION (EXTENSION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 May. Page 2515.)

Ms CHAPMAN (Bragg): This bill also was introduced by the minister in the dying moments of the sitting of this parliament in Mount Gambier. It reminds me of the election slogans of 1972. The then leader of the opposition went to the election with the slogan 'It's time,' and the coalition government of the day went to the election with its slogan, which not everyone remembers, of 'Not yet.' Here's the twist: this time we are saying, 'It's time'. In the short time I have been in this house, this is the third time the government has come to the parliament and said, 'We're not ready.'

The Hon. M.R. Buckby: Not yet.

Ms CHAPMAN: Not yet. Well, we say, 'It's time'. During the eight years when the previous government sat in this house I repeatedly heard (as did other members of the public) the carping of the then opposition about the importance of dealing with the issue of school fees. Under the capable and brilliant administration of education in this state by ministers Lucas and Buckby and the responsibility of the department, in particular, to provide parents with affordable fees for books and services and the like for their children, there prevailed a time in which there was some certainty and clarity about this matter. However, we have been in a twilight zone for the last three years. It is important to place on the record that this bill is to extend the sunset clause (as I have said, for the third time under this government) associated with the materials and services charges provided in section 106A of the Education Act—what we all know as the school fees issue.

Prior to the 1960s—I am proud to say that South Australia has been a pioneer in the provision of public education, especially for girls in the 19th century—it was clearly understood by parents that when they sent their children to school (it was only for a few years in those days) they provided the slate and chalk and pencils. That situation prevailed even with advances in the development of the equipment children used right up until the 1960s: the school identified the materials the children would need and the parents provided them. I am talking about decades ago when life was fairly simple and the requirements were not very demanding. There is no question that, even then, there were families that could provide their children with a pencil and others that could hardly afford a pencil. At the other end of the spectrum were families who could provide a full set of Derwent coloured pencils. So, there was a variety of capacities amongst families to make that provision, but they knew what their obligation was.

In the 1960s, schools got a bit smarter about how they provided these materials. They decided that, in the interests of providing the best financial advantage to the parents, they would bulk buy the books, pencils, slide rules and other apparatus to which we had graduated by the 1960s and pass on the tax-free benefits to the parents. The parents could go to the bookshop allocated by the school and purchase the books or to the area set up by the school for the issuing of books and simply pay the fee. Sadly, that era (which was pre-fax and pre-photocopiers, except for the old Gestetner) has gone. Life was fairly simple, as were the materials required for students.

That is the history of how we developed the pre-school fee. It was called a booklist fee, there were free booklists, it was described in all sorts of different ways, but as we became more sophisticated in the delivery of education to children, during the 1960s, 1970s and 1980s it became clear that the capacity for schools to be able to recover from parents the contribution that they needed to make to cover the cost of these materials was becoming increasingly difficult. There have always been parents and guardians who have not been able to afford even the basic requirements. As we extended the charges to cover photocopying and more and more costly texts, fees increased.

Under the Brown and Olsen governments, under the excellent leadership, as I have said, of ministers Lucas and Buckby, consultation was undertaken into how we might best address the shortfall that schools were experiencing as a direct result of parents being unable or unwilling to pay. As I recall, they introduced a number of regulations in an attempt to resolve this problem. We moved during the 1990s, at the behest of public school communities, to a much more autonomous situation where schools were able to have a say in how they operated and in the services they would provide for children, subject obviously to quality control and registration issues involving teachers, etc.

As we developed along these lines, it was important to be able to identify for those schools which were much more in charge of their own financial arrangements the shortfall caused by parents who were unable or unwilling to pay. I will deal, first, with those parents who were unable to pay for what was called free books but which is now referred to as the School Card. The School Card is important because it enables parents to apply for an exemption to the school fee based on financial means. If their application is accepted, the Department of Education and Children's Services makes a payment to the school which covers (almost but not quite) an amount which, historically, has been commensurate with the fee which has been determined for payment by the parent.

In that way, at least initially, when the School Card was introduced there was some proximity in the value of the school fee that was to be paid and the supplement that was given by the Department of Education to the school. The net effect of that was that the parents who could not afford to pay did not have to pay. Importantly, the student in that family did not suffer because they got their books, pencils and material. Also, importantly, the school did not suffer a deficit,

because there was some payment by the department to cover that. It seems that, over the past 10 years there has been a slipping behind of the amount that is paid by the department to the school. There is a widening gap, I should say, in that regard as to the actual cost of the provision of the materials and services and what was reimbursed to the department.

Schools were given an opportunity during this time to identify the necessary requisite materials and services for a child to have a reasonable education at the school at the standard that was necessary for them to achieve, and a further contribution from parents on a voluntary basis. The schools were saying, 'Look, we've got a bit of a shortfall here in the category of some deficit where we are getting some reimbursement from the parents who can't pay, and the department is paying over some money,' and also joined with the small group—and I think it is important to identify that it is a small group—of those who just simply refused to pay, who just took the view philosophically that they should not have to ever pay. So there was this shortfall. The previous government dealt with it—and I hope I am doing a fair assessment of this by saying, 'Well, look, we will give the power to the school to be able to legally recover these fees. But in the interest of ensuring that there is not an oppressively high amount charged by the school, we will require that to be capped.'

I have read some of the debates of that time, and I think it is fair to say that the then opposition (some now government members) made very important contributions in recognising that, if you are going to have a recoverable fee, it has to be fair and you have got to be able to have a cap that will ensure that you balance the necessary requisites for a basic standard of education against that which is affordable for the parent community. Of course, very importantly, during this time, as I especially look at one of the members, who is the former minister Buckby in this regime, he contributed enormously to the expansion of access for students in public schools to information technology, computers, software and requirements that go with it. That is to his credit because, clearly, children from the late 1980s on were in need of that type of technological support in their educational advancement if they were clearly in any way going to be students who could compete at an international level.

I think that was a very important initiative but it is a very expensive one. Whilst the previous government had spent, I think from memory, something like $85 million in setting up schools with computer equipment, what has come with that is an enormous maintenance cost and enormous turnover of software and requirements for the maintenance and replacement of computer equipment. We are now in an age where children clearly do not go to school with a slate and chalk. They now need an enormous amount of the equipment, and that not just for their computers but calculators and all sorts of other equipment that they need access to in order to have that standard of education maintained.

We came out of the 1990s essentially with a piece of legislation that capped the school fees, which was a differential cap from primary and secondary education fees, but it was a cap which was legally recoverable by schools. The debates in that time made it very clear, powerfully and obviously successfully put by the then opposition, that the opposition needed to have a sunset clause on this legislation. There was a big spectrum of views in the opposition at that time. Some were saying that it was outrageous that we have school fees at all and that they should be abolished. There were some very passionate speeches made by now members of the government in relation to that end of the spectrum. It extended across to those who accepted that there may need to be some provision there in relation to school fees but they needed to be clearly capped, and we needed to have a system that would be fair.

That is a very broad summary of the debate from the opposition. I do not want to do them a disservice, but what they were clear about and what I think is unequivocal in this debate is that they wanted a sunset clause. They said: 'By 1 December 2002, written into the legislation, we want the situation reviewed. We want there to have been a clear investigation as to how the capped operation of school fees worked, how the recovery of those fees operated, and to ensure that when we come for the big debate there has been a reasonable time to make that assessment.' The government of the day accepted that. I know members had their arms twisted but, nevertheless, that was written into the law. When we had a change of government in February 2002, and the then honourable member for Taylor, who became the minister for education having been for a number of years the opposition representative in the Labor opposition at the time, came into office and took on that position in April, what happened?

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

Ms CHAPMAN: So in 2000 we were faced with a review, pursuant to the requirement that was imposed by the then Labor opposition that we have a sunset clause because it was very important to be able to conduct such a review. One of the other important factors at that time was the Australian government's introduction of the goods and services tax. This was a major innovation, a very courageous one, in the reform of taxation in this country and it was one which, I recall, did not then have the support of the Australian Labor Party but which, I note, is now warmly embraced by every Labor premier and treasurer in the country.

Nevertheless, at the time—particularly given the amendments to the goods and services tax and its applicability in relation to food and other essential services—this raised the question for those involved with and supportive of the education industry of what the goods and services tax would apply to in that area. Certainly, some confusion was generated—largely, I think, as a result of the Democrats amendments. So, whilst there was some inability to easily identify what would attract the goods and services tax, that would have a direct impact on the costing for schools, education departments and parents in relation to educational provision for their children and there would need to be some period of assessment. We now know that there were some aspects in relation to expenses incurred by schools which did attract the goods and services tax and which needed to be taken into account. So at the time it was fair to suggest that this needed to be reviewed.

In February 2002 we had an election, and by April we had a new government in South Australia. Under the sunset clause of the initial legislation, they had until 1 December 2002 to review how it had worked, how the application of the GST had impacted, and to identify the cost and viability of how school fees (if they were to apply) would be implemented in this state. By November, on the eve of the sunset expiry, the then minister indicated that she needed a bit more time and sought the indulgence of this house to have another year in which to consider the matter. It seems that this had been a priority issue when in opposition, but in the following six

months they were unable to work out what they were going to do about it.

Although that was concerning to the opposition at the time, we acceded to the government's request and at that stage the minister indicated that she proposed a comprehensive consultation and investigation in relation to school fees. This coincided with the time of the first debacle regarding the new government's implementation of the School Card rules. They had determined (which may have been a good idea but was a mess at the time) that the means testing assessment for School Card could be identified against Centrelink data and there needed to be some time to sort out that mess because, in the hasty implementation of this process, parents had been left out in the cold and we had a situation where there was no clearly identified new regime. By November 2002 we had applications for School Card still unresolved and, of course, the tragic consequence of that was that we had schools left with considerable deficits at the end of that year and, as a result, their financial budgets were in some disarray.

Nevertheless, we did ask the government to consider that, if it was going to put the matter off for another year, there would at least be some CPI adjustment in the school fee cap—that is, the limit that was placed, in a differential basis, on students attending at the primary and secondary level—so that school communities themselves would not be left with a deficit. The minister at the time, now the member for Taylor, said, 'No, there will be no adjustment but we will come back in a year's time and we will have this issue sorted out.'

I was pretty new at the game at that stage, or perhaps I was just hopeful that the government would actually do as it had indicated and we would have some comprehensive review. I found it rather concerning, as we got to about mid 2003—that is, seven or eight months later—that there had been no evidence of an inquiry; there had been no indication by the government as to what it wanted to do; that school fees were capped at an amount of $223 for a secondary student and $166 for a primary student; that the applications for CPI increases still appeared to fall on deaf ears; and that we still had no indication of what might be undertaken in this comprehensive investigation. I recall that you, sir, as the member for Fisher, had also urged the government to make changes, calling for a policy giving school governing councils the authority to decide what the fees should be and the legal authority to collect that amount.

You had written to the minister stating that the current fees capped for primary and secondary students were inadequate but the government refused to listen. We each put submissions to the government as to a number of options that they could consider. We accepted that that was a policy determination by the government, but that it could at least place something on the table so that we could clearly debate the matter before the expiry on 1 December 2003. We were disappointed because notwithstanding that we made these calls during October, and we had countdowns, and I remember that there was a stage where we said, 'There are only 57 days to go before the legislation expires,' but the government still consistently failed to put any proposal on the table for the education community to consider. Yet again, notwithstanding that the Premier himself was a man who delighted in calling himself the 'education Premier' at the last state election, he was not putting education at the top of the government's agenda.

We sent out correspondence in relation to this matter in 2002 and throughout 2003, and there was utter frustration at the lack of delivery by the government in education. Even at that stage, and we are talking by September/October 2003, the Australian Education Union, that had clearly been a strong ally of the Australian Labor Party, came out and gave a public statement, and I recall one statement in particular, and I quote:

> The man who promised the world before the election and revelled in calling himself the 'education Premier' has let public education down. His promises are nothing more than a smoke and mirror trick.

So, even from their strongest ally at that point, came a clear message that the Premier and this government had failed the education community by their utter refusal to even put a proposal on the table by that stage. We then came to the eve of the expiry in December 2003, and yet again we had an application by virtue of another bill introduced into this house to say, 'We need more time to consider this. We consider that there has been some consultation but we need more time. We need to undertake this comprehensive review.'

A number of us in this house put to the minister the disgraceful situation of schools being left in limbo but again the government said, 'We still need more time.' It said that it needed a number of years and ultimately it was agreed that it would have two more years, from December 2003 to December 2005 to undertake its review, to consult with all the relevant stakeholders, and to come back with something for the consideration of the parliament. We clearly needed to have the matter resolved and, if it was not clear enough to the government at that stage, we then find that by February 2004 we hit another academic year, and another year of complete and utter chaos as to who is going to pay what for the materials and services charge.

So, even the amendments that were introduced in 2003 to help schools overcome yet another period of delay, which included the requirement that if a school was in a position where it felt in someway compromised to exercise legal action against a parent who refused to pay school fees, there was a provision in that bill to enable it to use to services of the education department. In relation to that, for the record, to the best of my knowledge not one school has exercised that option, and when I inquired of a school on one occasion as to why they had not, do you know what they said? They said, 'Because we can't rely on them to actually get on with the job and recover the money.' The lack of confidence that that school had in the department in carrying out that task was very disturbing but it gave a clear insight as to why schools did not have the confidence in the department to do that. Nevertheless, the option was there for them.

The member for Mitchell also introduced an amendment to make provision that if payments were going to be made on a voluntary basis by parents then that was to be voluntary, and could not be recovered by the school against a parent unless that had been with the imprimatur of a poll which required 50 per cent plus one of parents of students at the school voting in favour of the enforcement of a fee above the capped amount. So, with those checks to enable that we had some kind of process to cover the situation, at least on an interim basis, again that legislation was adjourned until September 2005, and nearly two years was granted again to enable that to take place. We hit the beginning of the academic year in 2004 and, as predicted, as clearly everyone had notice of, we then fell into the situation again where there was chaos at the beginning of the academic year over the schools and materials charges.

Why is that? It is because there is no clear definition as to what the department will be responsible for (which is

essentially the government, an allocation in the budget), what the schools will be responsible for, and what the parents will be responsible for. I highlighted earlier that one of the contemporary aspects of education which is clearly necessary, and I do not think that there would be any argument in this house against children needing to have modern tools of education including access to computers—not just the hardware, but useful, adequate and appropriate software—and access to the expensive medium of education, namely the internet.

Again, we have distress and concern on behalf of the bursars of schools as to how this will apply. We had the ridiculous situation where it was exposed that one school at least had included the expense of toilet paper in the materials and services charge for a child in a school. Clearly, that was not acceptable; even the government agreed that that was not acceptable. But that is the length to which schools would have to go, and they were forced into this position of sending on the charges to parents in order to enable them to cover the cost of providing these services in the school.

So we had the debacle at the beginning of 2004. At that stage we had the legally enforceable rules and a $166 fee for primary students and $233 for secondary students, and the voluntary component was enforceable with a poll of parents. We now know that in 2004 only one school exercised the option of having a poll. When we debated that matter in the house in 2003, it was clear that it was going to cause complications. Whenever you have a poll on anything it causes complications. It was simple things such as whether one parent should have one vote; if they had six children at the school, whether they should have six votes; and, if parents were separated, whether the legal guardians of the children should have separate votes and whether should they be entitled to do that. There was also the issue in relation to the security of the poll, whether it should be 50 per cent of all parents in the school, or 50 per cent of those who enrolled to vote or filled out the application; whether it should be scrutinised by some other body; and whether there were adequate measures to ensure that all parents had notice of the opportunity to poll. All these matters were very predictable issues that were going to be relevant to a poll.

It is hardly surprising to me and others in this house that only one school actually conducted a poll. This year it went to 23. We have 609 public schools in this state, and to think that only 23 exercised the option for the purpose of recovery is concerning. Why? It does not mean that other schools will not impose a voluntary fee, but it raises the question of whether they can recover it. Clearly, many decided that they would impose a voluntary fee in the full knowledge that it would not be legally recoverable if they had parents in the category that had not applied for a School Card or had not been successful and/or were not prepared to meet the fee on some philosophical ground. The schools that had parents who were unwilling or unable to pay and from whom the school attracted no payment as a reimbursement from the government were going to be left in that deficit—and clearly they have been.

That was the beginning of 2004. The then minister on 15 July 2003 said that the government 'does not want to see the education of a child hampered because a parent has not paid a school charge, so if children arrive at school without stationery it is supplied by the school'. That was a comforting statement by the then minister, but it did not translate. At the beginning of 2004, children who did not get their package were at school. That may have been totally contrary to the intention of the former minister and her understanding of what the situation would be, but this is the chaos that prevailed; and that is a totally unacceptable position for children who about to start their academic year.

We had disputes between parents and schools, and we had demands for payments which were, on the face of it, unfair in some instances for items that should have been picked up by the school or, indeed, should have been sorted out by the government with schools as to who would be responsible for that. We had more assurances and more promises that there would be some further consultation. I want to refer to that, because, having twice been told by the government that it was giving this matter very careful consideration, in 2003 debates we highlighted the incredible situation where consultation by the government was a lot of telephone calls on the Friday night before the debate on the Monday. That shows what a fallacy that consultation was all about.

On 3 March 2004, I wrote to then minister White. I want to refer specifically to the correspondence. The letter states:

> Hon. Trish White MP
> Minister for Education and Children's Services.
> Dear Minister
> Re: materials and services charges.
> During the debates on the materials and services charges bill last year I referred to the lack of a 'comprehensive investigation' that you had specifically addressed in the 2002 parliamentary debates. As you are aware, this is an issue which has much broader aspects than simply the amount and process of recovery of fees from parents. Already stakeholders have inquired as to what opportunity they will have to present a submission prior to September 2005. I therefore request details of when the review will be undertaken, the terms of reference and the composition of any review committee. I would appreciate your response prior to the resumption of parliament.

That was a letter of 3 March 2004. I did receive a letter from the current minister indicating that there would be consultation with stakeholders—which was pleasing—and that it would commence in mid 2004. I wrote to the minister on 28 May 2004. The letter states:

> Thank you for your letter advising that the consultation with stakeholders will commence in mid 2004. Please note my interest in this matter and I request that:
> (a) a copy of preliminary information or discussion paper is forwarded; and
> (b) notice is given of the time and venue of any meeting of stakeholders and hearing of any oral submissions.
> I note that the final report will then be completed and provided to you for consideration.

That is what she told me. I go on to say:

> Unfortunately in the debates in this matter in the past, your predecessor has provided legislation 'at the last minute'. I would hope this will not be repeated as we have set the September 2005 time frame to ensure adequate initial consultation and on any ultimate proposal the government presents. I look forward to receiving the above information.
> Yours sincerely, Vickie Chapman.

You would know about that correspondence, Mr Speaker, because a copy was forwarded to you. I am still waiting for a response to that letter yet, just over two weeks ago, we had an announcement by this government in the Mount Gambier sittings that it wanted to put it off for another year. I have not seen a single document; not a single reply as to the outcome of any consultation whatsoever has been presented to the opposition—not a single document. Let me just go to what the minister said at the Mount Gambier sittings. She said inter alia:

> In 2003, after the previous minister had been alerted to concerns in the community, this government introduced into parliament a range of legislative improvements to enhance clarity and transparency with regard to the charge. During the debate on this bill, a range

of amendments was introduced both by Independents and the Opposition and subsequently passed. One of these amendments was the requirement for a sunset clause. Although the government did not support this amendment, as it did not allow sufficient time for the new legislation to be fully trialled in schools, an investigation into this charge has been conducted by the government in order to honour this clause. Therefore, in 2004 the Department of Education and Children's Services (DECS) was asked to investigate the charge and the success of the legislative changes passed in 2003.

The chief executive of DECS then engaged Mr Graham Foreman to undertake an external review of the charge. This investigation was spearheaded by a reference group comprising representatives from peak groups in the education sector, including members of Principals' and Parents' Associations. Mr Graham Foreman also received submissions and comments from members of parliament, unions, parents and other interested members of the community. As a result of this investigation, the chief executive provided information about the spectrum of issues raised during the consultation process. Some of the issues brought to the attention of the government, though concerning, do not require legislative change for improvements to be made.

The minister made quite clear to the parliament that Mr Graham Foreman, a person who had been specifically engaged by the department, had conducted a review. Where are the results? Where is the report? Where is the response on this issue? Obviously, we are not allowed to know what it is. We are not allowed to be privy—not you, Mr Speaker, nor the parliament—to what is in that report. What is it that Mr Graham Foreman found that would justify the further extension of this sunset clause to September 2006, if anything? Perhaps there is some justification. Perhaps there is something in the consultations that justifies our putting this issue off again for another year with a hotchpotch, botched process that we and schools are left to deal with.

It is totally unacceptable that this government should expect members of this parliament, whether they are sitting on this side of the house or behind the government, to explain to their schools and their parent communities why they could not deal with this matter and get on with making some decisions. The government, for whatever reason, has consistently refused to place that on the table. We are not allowed to know. I have asked for that material. I have FOI'd that material. It has not been produced. Yet this government expects us to make a decision to extend a regime of chaos because it is too gutless to produce the material that it argues necessarily supports its case for further adjournment.

What is the minister saying? She says, 'We need to have a bit more time to work out the trial processes.' What a lot of bulldust! We have trial interim arrangements that are clearly not successful. They do not resolve this issue, and the government has to come to this parliament and give us some explanation of what is in those recommendations, if it has accepted them, and what is the real basis for the adjournment yet again of this debate. If everything was going well and all the schools out there were ringing me up saying, 'Everything's fine, Vickie, we're happy; no problem. We'll just go on with this arrangement. We have a big fight at the beginning of every year with some of the parents and we have to sue people. It's an issue for us,' that would be fine. But they are not doing that.

They are left with this dilemma. And the parents who not only have children at school but also are trying to manage the issues that come before their governing councils, and the other parents who have to deal with this, have been left in the dark. What are we left with? We are left with a request by the government to put this issue off for another year on the basis that the government will continue to trial the interim arrangements. We have not even got the first report, let alone any undertaking, even with the tabling of this bill, that we will see any more. But quietly, one by one, people come to the opposition to make clear that they are not happy, and we are not happy, and this parliament should not be happy with the attempt by the government to put this issue off again.

It may not have escaped the attention of most of the members of this parliament that the intervening event between now and 1 September 2006 is a state election. On 18 March 2006 we line up for a state election. Every government in every parliament at election goes to face the people and answer for what it has done and what it promised to do. But in this case it does not want to make the decision. It is a bit too hard. So, they say, 'We need to trial it a bit longer and we've got to put it off into 2006.'

Representatives of the government came along to a briefing (which I appreciate) and produced some new guidelines, which are quite comprehensive. They are guidelines as to how to have a poll and as to which column a particular expense goes into, and they are a precedent or proforma notice that goes out to parents allegedly with the effect of giving a clear indication about what they are really paying for. I make no criticism of those in the department who have been given the brief to provide this material. Faced with having to deal with the parents and the governing councils in January and February next year, of course, they need to have something to try to make this process a little easier for those who are consuming all of this regime. I make no criticism of that. However, it is an utter disgrace that the government just puts off the major decision and leaves everyone else underneath to have to flounder around and deal with this issue for yet another year. And, come February 2006, we will have the same problem again.

Even if we are able to hoodwink the parents into what they will pay and what they believe they ought to be paying—even if that happens—we will still be left with schools having a deficit of income which they are relying on and for which they have budgeted for a materials and services charge. Let me tell members why. First, most of the schools still will not conduct a poll: it is too hard. Secondly, the provisional payment for School Card—that is, what the department pays out to the school—no longer matches the cost of the provision of the materials and services charge per child. Again, the government will leave schools in the lurch, and that is what is unacceptable.

I say to this government: get over this yellow-bellied approach, this gutless approach, and deal with the important issues. Every minister who sits in this chamber ought to be making absolutely clear to the Treasurer, spearheaded by the Minister for Education and Children's Services, that this is an issue that has to be resolved, and that either he picks up the net $20 million it will cost if the decision is to abolish school fees or parents pay the lot or any kind of combination in between. That is what they should be doing—marching up to the Treasurer's office and making it absolutely clear to him that, instead of his calling the shots and saying, 'This is what we will do, just push it off for another year; 18 March, let it pass. Hop into September and ignore the parents and children out there in every school', that is what he is doing—

The Hon. K.O. Foley: You are an absolute poseur.

The SPEAKER: Order! The Treasurer is out of order.

Ms CHAPMAN: What this parliament ought to be aware of is that every minister who sits there and takes that crap ought to be standing up and saying to the minister that this is unacceptable.

The Hon. K.O. FOLEY: Sir, I rise on a point of order. For someone who purports to be the alternative education minister of the state to use the four-letter word she just used is offensive and not a good role model for the young students of our state. I ask that she withdraw.

Mr Scalzi interjecting:

The SPEAKER: Order! The member for Hartley is not in the chair. He is meant to be listening. I did not hear the word, I was talking to the Deputy Speaker but, if the member used a word that gives offence, she should withdraw it.

Ms CHAPMAN: Mr Speaker, if it was offensive to the Treasurer, I will apologise. But what I will say is that—

The Hon. K.O. FOLEY: I have another point of order, Mr Speaker. The person who purports to be the alternative education minister of this state—

The SPEAKER: That is not a point of order.

The Hon. K.O. FOLEY: My point of order is the use of the word 'crap' by someone who purports to be the alternative education minister. She should withdraw and apologise.

The SPEAKER: Order! It is not unparliamentary. As a word, it might not be in the best taste. However, I point out that the Treasurer came in and was breaching the rules with his own behaviour. It is not unparliamentary. It may not be the most pleasant word to use.

Ms CHAPMAN: I am happy to provide a copy of the *Oxford Dictionary* to the Treasurer, who is obviously struggling with this. What I will say is this: it is incumbent on every member of the government to support—

The Hon. K.O. Foley interjecting:

The SPEAKER: Order!

Ms CHAPMAN: —the Minister for Education in going into the Treasurer's office and asking for some decision on this matter. Everyone sitting on the back bench in the government party ought to do the same, because they all have the same problem. They all represent schools, parents and students who are left in the lurch and who, as proposed by this government, will be left in the lurch for another year. The opposition totally opposes this bill. We will move an amendment, because government members are so incompetent in getting themselves organised and need some more time. I tell you, sir, and I tell the parliament that the opposition has laid on the table an amendment that the sunset clause be extended to 1 December 2005. Here we are in May: if this government cannot get its act together, if it does not have something on the table by late October, it is not fit to govern and it is certainly not fit to look after the 609 public schools in this state. That is the amendment that I foreshadow. I confirm to the parliament that the opposition totally opposes this bill, and it is a disgrace that the government should even attempt to introduce it.

Mr SCALZI (Hartley): I was a little confused at first, because I was looking for the bill, and then I realised that it is only one sentence.

The Hon. I.P. Lewis interjecting:

The SPEAKER: The member for Hammond can speak if he wishes, but he should not interject.

Mr SCALZI: The sentence states 'delete 1 September 2005 and substitute 1 September 2006'. It got me thinking: what is this bill about? It is only a year. As the member for Bragg, the alternative education minister, has clearly outlined—and I will be a lot briefer—it is really about a sunset clause, because the government does not want to make a decision this year. It wants the next government after the 18 March election to make the decision. Well, the sun never sets on the education minister and the previous education minister.

The Hon. J.D. Lomax-Smith: What does that mean?

Mr SCALZI: What does that mean? If there is a sunset clause there is certainty. If you have an extension and say, 'We are going to resolve this problem in 2004,' then you resolve it in 2004. Then you come back and say, 'We will resolve it in 2005.' And what are we doing now? 'We will resolve it in 2006.' The sunset clause never sets. That is what I mean by 'the sun never sets on the education minister.'

There is a certain logic in this. The government is consistent: it is consistent in not making decisions. Everybody knows that in education you need certainty. You need to provide an environment where learning can take place. You need to have certainty and know what is expected of the students and what is expected of the parents. You need to know what is expected of the teachers and the institutions. This sort of carrying on year after year does not give that certainty. It does not provide an appropriate education environment. We know what happens at the beginning of the year when there is not that certainty; and I know, as other members in this place know, that the education community—the schools, those who have to collect the fees, and so on—is not happy with this situation. It is not happy with the continuous extension and having to collect these fees.

Some would argue that these materials and services charges should not be imposed, as they are not imposed on School Card students, and over 30 per cent of students are exempt. We know very well that some schools have 60 per cent and 70 per cent School Card students, so there are adjustments for those who cannot afford it and those who can. The amendments were brought in after a poll, and I have had some feedback about the polls. To have a poll on whether you should impose a fee or not will lead to problems. We all know that. As the member for Bragg said, are you going to have a weighting for the number of children in the families, and so on? There have been difficulties in some schools where the results of the polls were disputed because of the number of children in the families.

I believe that these issues should be resolved. It is only a minor issue when you think of the whole education environment and curriculum and what is required of students. But the minister is not dealing with this problem. The government wants more time. As the member for Bragg said, there has been a review, and we know that Graham Foreman has undertaken this, but we do not know the results. However, the minister says, 'Trust me, and we will get it right. Just give us a little bit more time.' Well, three years is the length of a federal parliamentary term. If you can have a whole parliamentary term at a federal level, surely you can deal with the materials and services charges and make a decision.

I suggest that the government is not making a decision because of philosophical problems within the Labor Party. There are those who do not believe in the materials and services charges and who say there should be no charges: that this is part of the concept that there should be free education. Of course, we all know that there is no such thing as a free lunch or a free education, and there is a difference between materials and services charges and the actual tuition, and so on, which should be provided. But, yes, make it clear what materials and services are and what should be provided. As the previous government has done in the past, make a clear distinction between primary schools and secondary schools—and, indeed, there needs to be clarity over VET programs as well.

What sort of charges should students be required to commit themselves to? I have had complaints made to me that it is difficult for some students enrolled in VET programs with TAFE and private providers to pay a considerable sum to be enrolled in those courses. We know that the federal government is funding some of these courses. There is lack of clarity, and there needs to be clarity. If there is not, students and parents are disadvantaged. There is no question about that. If education is compulsory up to the age of 16 years—the government is flagging that it will increase the age to 17—then we must be clear on the obligations of students and what support parents must provide to enable students to take these courses which are designed to better equip students not only to be involved in a certain direction but to be involved—

The Hon. J.D. Lomax-Smith: In other directions.

Mr SCALZI: No, in education subjects that deal with training and skills which are urgently required by society. That is why the federal government has responded with technical colleges.

Ms Thompson interjecting:

The SPEAKER: Order!

Mr SCALZI: I know that you, Mr Speaker, have said on many occasions that, if we abolish the materials and service charge, it will cost us about $20 million to $30 million. Sometimes, rather than procrastinate, if we just took a philosophical stand we would get rid of it.

Mrs Geraghty interjecting:

Mr SCALZI: The member for Torrens says that it is a pity when we were in government we did not take a philosophical stand, but we have never flagged on this side of the house that we do not believe there should be no charges. If members went to school council meetings, as I do, they would find that a lot of parents do not mind paying a charge. They get very annoyed when people take advantage of what the school provides and do not contribute. We all understand that there are those who cannot contribute such as those who are on the School Card and who are exempt, but there are people who avoid their responsibilities. At any school council meeting you will find many parents who are upset when people do not contribute, but there is always the problem of how you collect these fees and so on.

Of course, there are discrepancies between schools—there is no question of that—but if you decide not to make it free for everybody, then make that decision, pay the $20 million or $30 million, and do not have this debate year in and year out. It is a matter of making a decision. This is the third time that we have had to amend this legislation. What is this bill about? It is about extending the sunset clause. As the member for Bragg said, there will be an election on 18 March, and the sunset clause will be extended beyond that date. In other words, the minister is suggesting that she cannot make the decision, so let someone in the next government do it.

The Hon. J.D. Lomax-Smith: Don't worry, it will still be us.

Mr SCALZI: That is not what the candidate for Adelaide who will be preselected is telling me. He will present the minister with a challenge that she will never forget.

Members interjecting:

The SPEAKER: Order! I think the member for Hartley is straying from the bill.

Mr SCALZI: The member for Unley has a great reputation in education and an even greater reputation for demolishing Labor ministers.

The Hon. P.F. Conlon: Not a good enough reputation to keep his seat.

Mr SCALZI: I am glad the minister interjects—

The SPEAKER: Order! Interjections are out of order. The member for Hartley should return to the substance of the bill. The standing orders require relevance.

Mr SCALZI: This bill is about the government not making decisions, and the minister is part of that government, so I am not straying from the debate because, as I said, the bill consists of only one line: they want us to extend to next year. The Premier, who represents Salisbury but who lives in Norwood and who has criticised the candidate for Norwood, wanted to run for Hartley at one stage. When I was asked what I thought of the Premier running for Hartley, I said that I would cherish it because it would lift my profile.

The Hon. J.D. Lomax-Smith: What about relevance? What about the bill?

Ms Chapman interjecting:

Mr SCALZI: The member for Bragg tells me that it is relevant because the Premier is the education premier, but I would have loved to teach him a lesson in Hartley.

Members interjecting:

Mr SCALZI: They all laugh, but the Premier has deserted the working class because he does not live in Salisbury. It is not the same as the member for Unley moving to Adelaide where the demographics are the same.

The Hon. P.F. CONLON: On a point of order, Mr Speaker, I raise the issue of relevance. This is a stream of consciousness, but—

The SPEAKER: Order! The minister has made his point. The member for Hartley needs to focus on the bill.

Mr SCALZI: Well, I suggest that there are more people on School Cards in Salisbury than in Norwood or Unley. The Premier, who is not even here, could come out as the education Premier and say, 'Look, I abolish the materials and services charges. I abolish them.'

The Hon. P.F. Conlon interjecting:

Mr SCALZI: We got plenty of money from GST. The land taxes have been coming in. The education Premier should re-examine his conscience: 'I'm not going to write any more letters with refunds and cheques to the land-holders—

The Hon. J.D. Lomax-Smith: You want land taxes raised? You'll put land tax on it?

Mr SCALZI: No. He should say: 'Next year instead of putting my photograph on the letter when I send the bills for land tax I'm going to abolish this $20 million, and then I get credence to my title as the education Premier.' The union would want that, and I am a member of the union. I know that it would want that, but is it the responsible thing to do? One will have to weigh it up. On this side, we have not said that we are going to abolish it, but at least we brought about certainty. This government has no certainty and cannot make a decision. The education Premier dodges the issue and the minister dodges the issue. 'Trust us,' they say, 'We'll sort it out next year when we're not in government.' In other words, they are passing on the responsibility to the next government. That is how much confident they are in making decisions.

The Hon. P.F. Conlon: How much what they are?

Mr SCALZI: Confident.

The Hon. P.F. Conlon: 'How much confident'. Goodness me, a school teacher. You used to teach school didn't you, Joe?

Mr SCALZI: Well, I look forward to teaching you lot a lesson next year.

The Hon. P.F. Conlon: 'You lot'. Don't you mean youse?

Mr SCALZI: Yes; oh well, I was referring to the Premier coming from New Zealand!

Members interjecting:

The SPEAKER: Order! The house is getting disorderly. The member for Hartley has the call.

Mr SCALZI: I want this government to make a decision. Do not come back in here with another line and say, 'Trust us; we'll get it right in the future.' I oppose the bill. I will be supporting the member for Bragg with an amendment to give certainty so that this government makes a decision well before the next election, because you are elected to make decisions, not to dodge them. You do not know whether you are going to open bridges or close them. You do not know whether you are going to have a tram with an extra width or not. You do not know whether the tram is going to be at North Adelaide, or wherever. You are procrastinating. You do not have the Public Works Committee working. You hate making decisions. Everything is based on 'How good do we look on the television, and how can we convince the people that we are doing a good job?'

The Hon. P.F. Conlon: It has never occurred to me that I might look good on television, Joe.

Mr SCALZI: No; well, I might have the most marginal seat, but I cherish that position because I know I will have to work hard, and I will continue to work hard to represent the people of Hartley. But the schools in my electorate and other electorates require some certainty. This government should provide that certainty by making a decision on the materials and services charges. You either abolish them or you make a decision about what you want to do, but do not come back time and time again with a sunset clause. The sun will not shine on you too long.

Time expired.

The Hon. M.R. BUCKBY (Light): I rise to support the member for Bragg in this debate. I, too, am opposed to this bill because there has been a long period of time. Three years is a long period of time for this decision to be made. In fact, I well remember the government party when it was in opposition as being very critical of us as the government, particularly in terms of this materials and services charge and the decisions that we made. I fully expected that when Labor came into government it would have sorted out a policy and would have known where it wanted to go and what exactly it wanted in a materials and services charge. I would have expected that within the first 12 months the government would have undertaken the review, that it would have been completed and that the school community would have a very clear picture in front of it as to what it was going to pay for.

The member for Bragg has very eloquently covered the history of the materials and services charge. I will not go back over that, apart from saying that, where we had a number of parents who challenged the materials and services charge—and just exactly what they expected the children to have in terms of materials and services if they did not pay for them I am not quite sure, except for the fact that they obviously would have to go out and buy them at Woolworths, or some other store, to supply their children with the necessary pads, pens and paper that they required. But they were not disadvantaged. They were given those items even though they did not pay in their school so that they were not seen to be disadvantaged.

The schools in our electorates have a huge problem at the moment. The problem is that there is still a significant number of parents who are not paying the materials and services charge. At Gawler High School, for example, where I sit on the governing council, last year some $24 000 had to be written off because of the uncertainty in this materials and services charge and the lack of this government being able to make a decision. That is where the schools need to know, minister, just exactly where they stand, because that is where they are losing out on income. This year that is expected to go even higher than $24 000. It requires you as the minister to make a decision. That is what you are there for. You have had three years to do this, and postponing it again is not acceptable at all. In fact, when we look at that and it goes past the next election, one has to wonder exactly what the government does have in mind. The government hopes to put this off for another 12 months, so the electorate will go to the election in 2006 without a clue about what the government is going to do here; and I think that is disgraceful, because you have had three years to do it.

Again, we are seeing a postponement of a decision. A review is quite easily undertaken—the government has conducted many other reviews not only in education but also in other areas—and there is no reason at all why this should not be done, apart from the fact that the government must lack the courage to actually grasp the nettle, get down to it and make a decision.

This issue is particularly important because outside of this we have an Education Act of which we undertook a review when we were in government and when I was minister. There were only about two areas on which we had not signed off; otherwise, that act would have been brought before the parliament before the last election. That is desperately needed here in South Australia. We are working with a 1972 Education Act, and, although it has been reviewed, a new bill needs to be brought into this place to bring the act up to date with 2005. Yet this government does nothing. This government has now been in power for three years, but all we see is tinkering around the edges, with different programs being rebadged or different things being promoted with very little outcome.

I will not delay the house any longer, apart from saying that I think it is very disappointing that this bill even comes before the house. This is a decision that should have been made a long time ago, and I think it shows the lack of ability of this government to actually grasp the mettle in this one and say, 'We will make a decision, we will have a review—

An honourable member: The nettle: grasp the nettle.

The Hon. M.R. BUCKBY: Nettle, sorry. We will make a decision on this; we will go to the public with a policy at the next election; and we will be open and accountable, as the government said it would be during the last election. We will go to the public with a policy, whereas we have here yet another delay of a policy decision—one that is extremely important to every family that sends it children to school in South Australia. The government needs to be looked at in the light of this, because this is a government which cannot make a decision and which is hiding this from the electorate. I think the electorate really needs to put some pressure on the government to demand a decision before the next election.

The Hon. I.P. LEWIS (Hammond): Mr Speaker, you would understand that amongst the words which are to be found in the bill No. 105 on the *Notice Paper* are the operative words to which both the members for Bragg and

Hartley drew specific attention. It is referred to as the 'sunset clause', and is to be found in section 106A on page three of Part 10 of the principal act, the Education Act 1972. The member for Light has properly reminded the house that such acts need to be reviewed from time to time, and this one needs to be rewritten. It is over 30 years since it was done.

Section 106A(16) has an explicit provision in it, and that is the last of the 16 subparagraphs of section 106A. As you would know, Mr Speaker, section 106 itself—relevant in the context of this debate—is about moneys required for the purposes of this act. It provides:

> The moneys required for the purposes of this act shall be paid out of moneys provided by parliament for those purposes.

That has been the way of things for a long time. The new clause that has been inserted into this old act to give it some measure of freshness is like tizzying up the next model of a motor car, where they change the grille and a few of the accessories.

Well, section 106A is called 'Materials and service charges for curricular activities'. What it is really saying is that, as you know, your child will get an education in the system which will provide that child with all that is necessary to establish literacy and numeracy skills in their mind, and this will be done in a timely manner throughout their education. That is what section 106 provides, but 106A goes further than that. As you know, sir, having been a minister responsible for such matters, the councils are comprised not only of parents but also of teachers and other representatives such as those from local government. Indeed, all of us, as members in this place, have a right to be a member of secondary school councils and, if we are not the member, we may nominate someone to the council—regrettably, unlike regional development boards and other regional natural resource management boards.

However, in the context of primary schools, you can go along and, if you want to be a member, you can, but you cannot nominate anyone in your place. So, the school council is very much a collegiate body of opinion from within the community that is geographically served by the school in which the school is situated. It is not only the parents, and it is not only the staff, and it is not only an amalgam and a consensus of representatives of the two of them: indeed, it goes further and it includes other responsible people from organisations within that geographic area to ensure that it is properly representative.

So, the materials and services charge for curricula activities is not something imposed on the community in which the school is situated: it is something that the community itself decides its school ought to have through the council of the school. I make that point, because it is vital to understand it in defining the ineptitude of the government to which the member for Bragg has referred, as well as the member for Hartley and the member for Light, a former minister himself. He well understood that when, as minister, he introduced those notions and very successfully and effectively introduced the notion of partnerships between the government and the community. I think he called it Partnerships 21, which has regrettably now been scrapped because socialist ideologues cannot cope with the idea of not directing as a government the schools in how they shall proceed to determine what is taught and what is going to be provided as part of the core curriculum, properly developed and made readily available to teachers. They also cannot accept the fact that the schools themselves and the communities in which they are located ought to have more say in what they want to do.

Clause 106A is very much about giving the power to the people, and the ALP wants to be seen as giving the power to the people. Well, damn it, why don't you? Have you got no guts; have you been politically neutered completely; has someone slapped a pair of 'bidizzos' on the gonads that make for decision making in political terms and relieved you of the ability to do so in consequence, leaving you sterile? What is the problem? Why can't you let the people have the power to make the decision that is referred to and conferred on them by section 106A? There are 16 bits of this and I will get through them pretty quickly (I know that it will not take me a minute for each, and I have not got that much time even if I wanted it).

Provision (1) states that the materials and service charges may be imposed in accordance with specific provisions in accordance with a curriculum determined by the Director-General. In other words, you cannot levy a charge unless both the school council—it is not the teachers or the headmaster dictating it—and the Director-General agree that it is appropriate to provide those services within that school at the request of the community. If the Director-General sees that there is a mischief on foot here, that they are teaching some weirdo religion, or whatever it is that might be the object of the exercise such as has occurred in North Dakota, that cannot happen under this provision of this act.

The second provision is that different materials and service charges may be imposed according to the year level. It is not homogeneous: it can be different for each year from reception through to year 12, whether it is a primary school, a secondary school, an area school or a multiple campus school. It can be different but it does not have to be. So, there is a great deal of democracy in that as well. The points I am making are to illustrate the fact that this government has not got the grey matter, or the gonads, or a combination of the two, to allow the people in law to make a decision for themselves about the school to which they send their children.

Subsection (3) is not something that requires me to explain: under section 96 of the provisions of the principal act, it relates to administrative instructions. But, for the benefit of honourable members, I will refer to the issue of administrative instructions for school councils that can come from the minister. So, if the government is scared that they will go off the rails, the minister has the power to say, 'Come back; stay on the straight and narrow.' That is there, and there is no risk of that. It also points out that, within the constraints of the straight and narrow to which I refer under subsection (4), no such charge can be made for the provision of school buildings or fittings. Thus, it will not be for aggrandisement of the establishment of the school itself, and the facilities that are there: they still have to come from the general revenue appropriated by parliament. The council cannot make a decision; not that it necessarily would, but it cannot in law under section 106A.

Subsection (5) states that the basis upon which the charges are to be fixed must be disclosed by the head teacher, so the parents—each and every one of them, of every child in that school—will know what the basis of the charge is, and they will also know the amount which has to be approved by a vote of the school council, and that is democratic. It is representative of not only the parents, the people in the community, organisations such as local government and us as members but teachers as well. They are there it has to be approved by the school council.

Mr Scalzi interjecting:

The Hon. I.P. LEWIS: Yes, indeed. The liability is determined so that it is not just the students of the school but the parents of the students who will accept—and must accept—responsibility. There are provisions which exempt them in particular circumstances provided in parts beyond subsection (6). I mention subsection (6) because, regrettably, it does not say anything about wards of the state, that is, foster children. However, we know that elsewhere in the regulations foster parents are not held to be responsible, and that the contribution that is to be made on their behalf is made by the state; so there is no disadvantage to those children in foster care in schools they attend as compared to any other child. Indeed, there is probably an advantage both to those children and the school.

Subsection (7) provides that the amount of the charge must be provided in writing, and the amount that is payable for the materials has to be identified as a subset of information from that which is for services; so they are separated. That has to be spelt out in a way to enable what will be omitted if payment is not made. It must be provided in a form approved by the Director-General, so there will not be any ambiguity about it; it will be standard across the state. We cannot get into a fix over that. Subsection (8) provides that, in approving the form of the notice, the Director-General must endeavour to ensure that the notice is informative about those matters of materials and services that will not be provided, unless the payment is made in whole or in part.

As I said at he outset of my contribution on this question, a student is not to be refused materials or services under subsection (9) that are considered necessary for curricula activities. Subsection (10) provides that the charge would be recoverable as a debt due to the council. However, subsection (11) allows the Director-General or the head teacher to permit the payments to be made by instalments, or to waive or reduce the payments for materials and services, or, if things get tough on the family after a payment has been made and they appeal in good grace to the headmaster, confidentially of course, a refund of the amount can be made. It is not draconian in any sense.

Section 106A is the most reasonable statement of obligation that parents can have in relation to the interests of their children. Subsection (11) is a very important part of section 106A that is amended by this proposed deferment to September 2006. Subsection (12) is about legal proceedings. Subsection (13) relates to the Director-General making available to the school services for the recovery of outstanding amounts of the materials and services charge at no cost to the school; so it will not be a cost burden. They do not have to go out and get collection agencies or lawyers, or anything like that. The Director-General will make that service available to the school that has decided to have a materials and services charge at no cost to the school, so the school council and the community is not disadvantaged in that respect; and parents, who want to be difficult to get along with, will not be dragged around the streets of the community, or up and down the road on which the school is located in the country in a way that will be embarrassing to them. Any change thereto has to be within the CPI as defined in subsection (14). There are definitions of 'prescribed sum', 'relevant indexation factor' and 'standard sum'. Subsection (15) provides that a school council must not make an application to the Director-General for an amount greater than the standard sum unless there has been a poll—meaning unless parents have voted. So the whole thing is fair, reasonable, democratic, empowering, thoughtful and considerate.

I know the minister well enough to know that this legislation is not generated by her. It comes as a consequence of the spin doctors advising the government, and telling it, 'Don't take the risk of offending a few people.' Now, I observe that the Liberal Party has, very cleverly, taken the moral high ground in this by saying, as I am assured by the contributions from the members for Bragg and Light, that it will have a policy at the next election which the government has not got the guts to adopt. Its policy will say whether or not it will introduce this charge. Surely, we must accept that we can enhance the rate of learning, the breadth of learning and the benefits of acquiring that knowledge by allowing schools to make what they provide for the children in the communities in which they are located more things that they see as relevant than are essential to satisfy the basic curriculum delivery. The minister, I know, understands that principle. It is a pity that the rest of the Labor Party's wimps in their machine, not just the caucus, do not do the same.

Overall, the caucus, of course, has to accept responsibility. That means that collectively they decide to sink or swim on this proposition of doing nothing until after the next election, by the grace of God or whomever should be responsible, should they return to government. Therefore, it is a matter of regret that the minister, nonetheless, chooses, on behalf of the party and the caucus, to do nothing.

South Australia's parliament has a reputation for world firsts, particularly in education, because it was the first place on earth to provide schooling for all children, regardless of the means of their parents, for five years, in the first instance—the first place on earth. Indeed, it was in this chamber that that measure was debated in the first instance and passed to make it a law, rapidly followed by the rest of the civilised world, as it called itself, not coming a long time after the abolition of slavery in other parts of the world, which it was our good fortune never to have to suffer on these shores, other than that it be against the law that it occurred.

So, we have a famous first, which I would have thought the minister and the caucus would have grasped. But it provides me with the means of making that point in the next election campaign, and I shall.

Time expired.

Mr WILLIAMS (MacKillop): On the night in late 2000 when we were discussing matters around education, including this one, I happened to be acting Speaker. I remember the then opposition spokesperson for education matters, the member for Taylor, speaking passionately against the measures that the Liberal government was trying to put into legislation for parents whose children were benefiting by being supplied by the schools with their educational materials (pens, paper, pencils, erasers, etc) and the money to be provided for the school excursions etc. Prior to that time, over a number of years, the Liberal government had ensured that schools were able to raise these funds by regulation.

Prior to that, the parents had to pay as they went along, so the parents supplied the books, pencils, erasers, etc. and, if there was a school excursion, a note went home with the children to ask the parents to send along a few dollars or whatever it was to pay for the school excursion. A decision was made that the schools themselves could provide these materials at a much reduced rate for the children in their schools, and it was put to the parent groups that, if they paid a small charge, all the ancillary costs would be covered. To

enable that to happen, the Liberal government instituted regulations. The Labor Party in opposition thought that it could get some political mileage out of opposing that, and on no fewer than three occasions in the other place used its numbers and those of minor parties, principally the Democrats, who should also hang their heads in shame over this measure, to disallow those regulations.

So, it is not as though this issue has just appeared. I have been in this parliament for nearly eight years and this issue was alive and well before I came to this parliament, and for the minister today to suggest that she needs more time I would like to be able to say smacks of incompetence, but it does not smack of incompetence: it smacks of fear. And I will come back to that. The Labor Party in opposition, under the policy of its leader (the now Premier) of maximum mayhem, opposed everything and did its damndest to stop the government of the day from doing anything in South Australia. That was the stated policy of the Labor Opposition: maximum mayhem. And this is one of the little things that it did.

No fewer than three times in the other place it disallowed these regulations just to try to make life difficult. It argued that schools should be free and that books and pencils should be provided by the state. It argued that in opposition year after year. When, as I said, I was sitting in that chair in late 2000 before the current minister even came into this place, the then opposition spokesperson insisted that the materials and services charge would be put into legislation and people would be obliged to pay it. The then opposition spokesperson, the member for Taylor, insisted that there be a sunset clause and it be reviewed.

Members will recall that at that time we were in the throes of having a GST introduced in Australia and there were some questions hanging over the impact of that and some debate about the impact of the GST on educational materials, etc. The government of the day accepted that there would be a review and allowed a sunset clause to be put into the legislation. This clause would 'sunset' on 1 December 2002. I am absolutely certain that there was an expectation that within two years we could have sorted out that problem and worked out exactly which way we were going in our schools. The GST issue would have been fully understood, we would have known the impact of that and we would be able to move on. We would either institute it into the legislation and move on or we might take this ideological U-turn and say that the state will provide these materials and services for nothing.

Of course, there was a change of government in early 2002, most unfortunately, because the parents and the students in our schools are still in a state of limbo over this issue. They still have no idea. The minister sits there and frowns, scowls and mutters something. This government has had three years, and it does not want to make a decision before the next election because it is absolutely scared of its own shadow and of the electorate. It is very simple for this government. It railed at length while in opposition that education should be free. It should put its money where its mouth is and say that the state will provide for these services and will do away with it or it should make the decision and put it into the legislation—which was Liberal Party policy when we were in government; it was what we did by regulation and what we tried to put into the act—and move on.

We are now here debating something which, as I have pointed out, has been continuously debated in this chamber for over eight years, and this government cannot make a decision. Why do governments not make decisions? It is because they are too damned scared. Governments are scared of only one group of people: the electorate. This government cannot even make a decision over a small matter—a matter of a few hundred dollars per student; the money that buys the books, pens, pencils and erasers and allows them to go on the odd school excursion. This government is so scared of the electorate that it cannot even make a decision about that.

As I said earlier, I would like to think that it is just incompetence. The government has shown in just about everything it has done in the last three years that it is incompetent; there is no doubt about that. It continually shows that it is incompetent. But I do not think this is incompetence. This government knows exactly what it is doing here. It is putting off a decision that it spent years trying to make political mileage out of, as I said, when overturning the regulations, and saying that this should be free and how outrageous it is to charge parents and students for the books and the consumables they use at school. But when they took office, government members were so ashamed of their behaviour when in opposition that they could not bring themselves to make this decision. It is not incompetence—although it smacks of incompetence. The government is purely running scared of the electorate.

Once again, this government's actions are miles and miles behind its rhetoric. I call on the minister to have the guts to make a decision before the next election. This is not a big decision: it is a fairly small one. We heard the minister today during question time. Her department is out putting up signs in a school 100 miles on the other side of Ceduna that has been closed for at least three years.

The Hon. J.D. Lomax-Smith: It's not closed.

Ms Chapman interjecting:

Mr WILLIAMS: An annex. There are no children there: there have not been children regularly at the school for over three years. Students from a school might go there and camp for a weekend.

Members interjecting:

The SPEAKER: Order! The member for MacKillop needs to come back to the bill. The minister is out of order, and so is the member for Bragg.

The Hon. J.D. Lomax-Smith: It was 64.

The SPEAKER: The minister is out of order.

Mr WILLIAMS: The minister certainly is, and she does not know what she is talking about; that is the other thing. The minister would do well to go back and count how many schools the previous Labor government closed before that period.

The Hon. J.D. Lomax-Smith: It was 64.

Mr WILLIAMS: It was more than 64. If the minister wants to debate that issue we will do so, because before she came near this place her colleagues were closing down schools, and they did not care for anyone in country South Australia; they just closed down schools in country South Australia. Not only that, they wanted to close down half the hospitals there, too. So, don't give me this garbage.

The Hon. J.D. Lomax-Smith: It's irrelevant.

Mr WILLIAMS: It is not irrelevant. It is absolutely as relevant as what the minister is saying, and she knows it. What is relevant here is that the minister does not have the guts to a make a tiny, simple decision before the next election. She does not have the guts to go to the people of South Australia and say, 'I made a minuscule decision and I ask you to support me.' This was first put off, at the insistence of the Labor opposition, until December 2002. In government, the then minister (the member for Taylor) asked

for another 12 months, and it went out to December 2003. So, she had a whole 12 months. The current minister was in the cabinet for that period. She knew what was going on. When we reached that date, years away from an election, the government said, 'No, we cannot make that decision. It's too big. We will give ourselves another two years this time to make sure we can get over the line.' It cannot even make that minuscule decision in two years. The minister now has the temerity to say that this is such a big decision that it has to occur after the next election. That is what this is about: putting this off until after the next election. It is absolutely outrageous, and it just shows how strong this government is. In reality, it shows just how weak this government is. It cannot make a minuscule decision because it is scared of the electorate.

The Hon. J.D. LOMAX-SMITH (Minister for Education and Children's Services): I would like to thank members opposite for their contribution—for giving their historic accounts of education in South Australia since 1875 and the description of how slates, chalk and pencils have been brought down through the generations. I was somewhat surprised by the member for Bragg, as I understood from her speech—which I listened to in some detail, long though it was—that she was supporting the materials and services charges. I was uncertain whether she wanted to increase the cap substantially or make it easier for school councils to increase the level of school fees. But certainly there is some confusion, because the member for Hartley appears to want to abolish them altogether.

I think it is true that some of the criticisms that have been levelled against this measure reflect the previous situation when the last government was in office rather than the situation today, and certainly it is worth putting on the record those changes which have occurred over the last 2½ to three years. First, it is worth mentioning that, despite the assertions of the member for Bragg, she was given every opportunity to make a submission to this review. As with all members of parliament, there was an open invitation to make comment. As has happened so often, she did not avail herself of that opportunity and therefore did not have a direct voice. But those people who were involved and those stakeholders who chose to be part of the process for the reference group who advised the department and those involved in the consultation (parents, school councils and teachers—all of the relevant individuals) made extensive submissions and, indeed, it is my intention to keep that reference group into the future because I want to make sure that the amendments we make to the administrative guidelines are those that they most sought.

The changes that are being made I think are such that many of the issues which have been raised today will be resolved. But it is quite clear that, in good faith, many members of this house have been concerned about the way the fees have been charged, the lack of transparency in the charging regime, and the way the polls have been conducted. The assertions we have heard today really in some regard reflect the difficulties over the past three years rather than the status quo at the moment.

It is worth saying that the member for Bragg has indicated that there is a gap between the School Card supplement and the standard sum. I want to make it quite clear that, whilst the previous Liberal government allowed the School Card subsidy to be less than the capped amount, since coming into government we have added a social inclusion supplement, so that the Labor government has now ensured that there is no gap between the level of the standard sum and the level of the School Card.

Again, since coming to government, contrary to the member's comments, we have made a significant improvement to the School Card scheme, and it is our intent (and our guidelines make it clear) that there is a presumption that anyone applying for the card will get it, rather than the reverse, which was the situation previously. Whilst she may lack confidence in the DECS employees and their capacity to administer any directives or provisions, I do not have a lack of faith in them any more than I have a lack of faith in teachers, and I think it is appropriate that we should support them in their endeavours.

In regard to the matter that there are inappropriate charges, I have no doubt that in the past there have been, but that will not occur in the future because we have endeavoured, through our administrative guidelines, to come up with processes that will be transparent and quite easy to follow in regard to the polling, billing and collection of fees. Those matters will be very clearly defined so there will be no question of any school being able to enter into the computer pro forma any item, process or procedure which is not allowable. The computer program has been designed so that every school will have to comply with the pro forma and there will not be the capacity for any school to bill for any item which is not allowed, and that is a clear step forward.

That level of transparency of course will also occur with the polling because, as members will realise, this government did not design the polling scheme (that was something that was imposed upon us in this place) and, inevitably, with what was effectively one school year to bed down a new process that was devised late at the end of the preceding year, it was quite difficult to implement. But, this year, as last year with my single funding model, I am absolutely committed to getting the material out and into schools, and the training and the workshopping of the forms completed in good time.

This is why I will not allow this process to be left until September and will absolutely oppose any notion of the sunset clause being extended to December, because that is a recipe for mayhem. If those opposite wish to drive every school into chaos, they will be doing so by devising a program and a process which is released to the schools in December. My view is that our schools deserve better. Whilst those opposite would like our public schools to descend into chaos, I want them to understand the process, be on top of the system and be supported properly.

It seems to me that by getting this process finalised today we will be able to consult again with the reference group, because the reference group is happy to look at the administrative guidelines we have devised. I am very confident that the guidelines will make it impossible for schools to transgress and impossible for parents to be confused in the way they have been previously. This is about making the system effective. For instance, we know that the inclusions will be well defined. There will not be school trips and VET courses. There will not be any question of private use of computers or the internet or any question of unacceptable activities. There will be no question of staff costs, teachers' materials, special purposes programs, student support services or IT being included in the charges. The pro forma will allow only those acceptable inclusions to be billed to the parents, who will then be able to read both the polling instructions and the billing instructions clearly. In fact, this will be a great advance on the situation today.

In addition, we will ensure that people are aware of the presence of the School Card support—and it is true to say we believe that some parents still are not aware of it and do not fill out the relevant forms. Indeed, we will strengthen the confidentiality clauses that will make it much less embarrassing for some parents to fill out the forms; and their children will have a degree of confidence in the fact that they have a confidentiality clause surrounding their access to the School Card.

Clearly, some people are uneasy about this charge. As a matter of good faith, I am happy to let our improvements bed down over the next school year. We will make the material available to the schools hopefully by 1 August. Between that date and the beginning of next year there is a real chance that every school will have the material, the computer tool, access to support and advice, and access to polling support, so that by the time the new school year starts the system will be bedded down. I am confident we can do it. That is why we must oppose the member for Bragg's mayhem, chaos and confusion clause, because that will guarantee that, come next year, no school will know what the process is.

Bill read a second time.

In committee.

Clause 1.

Ms CHAPMAN: Will the minister agree to table the reports of Graham Foreman?

The CHAIRMAN: I do not see what that has to do with the title of the bill, but if the minister wishes to answer she may.

The Hon. J.D. LOMAX-SMITH: I am not sure what that has to do with the title. The reports referred to by the member are not relevant to this bill. However, the review process did highlight some significant issues that need to be addressed. The member has been advised of those matters; she has been given the outcome of that review process.

Ms CHAPMAN: Mr Chairman—

The CHAIRMAN: What does this have to do with the title of the bill?

Ms CHAPMAN: How do we know? We have not seen the report. It may have recommended what the title of the bill should be. In the absence of receiving the report, I ask the minister, who says that the opposition have been advised of the outcome of the report, of what does she claim we have been advised, because I say to the minister that we have called for the report, I have read out the correspondence that was written to the minister over a year ago requiring that it be produced (including dates of meetings and reviews). I have outlined that there has been no response whatsoever to our correspondence. So, when the minister says that we have been advised of the outcome of the report, I say to the committee, that is a complete and utter nonsense, and I ask the minister to table the reports on the review on which she has based the second reading explanation. If the minister says that she will not provide those reports, let her say so, but she should not come into this place and claim that the opposition has been briefed on the report, because that is a complete nonsense.

The CHAIRMAN: Again, this has nothing whatsoever to do with the title of the bill.

Clause passed.

Clause 2 passed.

Clause 3.

Ms CHAPMAN: I move:

Page 2, line 11—Delete '1 September 2006' and substitute '1 December 2005'.

The CHAIRMAN: We can consider the amendment if there is a copy of the amendment before the chair. There is no amendment on file.

The Hon. I.P. Lewis: That doesn't stop it from happening.

The CHAIRMAN: I am afraid it does, member for Hammond. The standing orders clearly state that the amendment must be provided in writing before it can be considered by the committee.

Ms CHAPMAN: Mr Chairman, I have handed to you a written amendment which I seek to be received in my name. I indicate that parliamentary counsel was instructed prior to the commencement of parliament today that that amendment had been approved—you will see my signature on the bottom of it—and the request was conveyed that it be tabled. Where it is, I do not know, but I place it on the record.

The CHAIRMAN: Proceed.

Ms CHAPMAN: I will speak to the amendment briefly. In her reply, the minister today said that she is confident that the processes that her department has put in place for a precedent notice and guidelines in relation to polling, the issuing of notices and what is to apply in future notices to parents for the process of both polling and the application of what is to be included in school fees will be ready and that they are in order. She is confident that that will deal with some of the matters that have been raised during the course of this debate.

During the briefing I was shown a draft of those documents in which the minister shows confidence and which are purportedly the result of some of the recommendations in the Foreman report. We do not know whether or not they are for the reasons I have said. Assuming that they are, and given her confidence that the government is going to remedy some of the issues that have plagued this government in the application of the school fees both in exemption under School Card and in the enforcement of the payment thereof during the past three years, that is every reason for the government to support this amendment.

If they are issued by 1 August—and the opposition has been advised that they will be, because they are now out for consultation with the review committee to ensure that they are ready to be applied by 1 August—then there is plenty of time for this government to deal with this issue one way or the other by 1 December. There is no excuse whatsoever. Here is a government which, in 18 months, is capable of approving, budgeting, building, spending $7 million and opening a school for 26 children, yet it cannot make a decision about whether schools are charged $166 a child for books and pencils, or whether they are charged nothing, what they like, or anything in between. It cannot make a decision in 3½ years. What a ridiculous situation. However, we have the assurance of the minister here tonight who told us that she is confident that the guidelines she is putting in process by 1 August will fix it all. Yet, she is still too gutless to make a decision here on this matter, and to deal with this issue for every school, every school council and every student in the 609 public schools that we have in this state. For the 167 000 children that we have left in public schools, she cannot make a decision on a $166 fee. Well, what a disgrace.

I repeat what I said in support of this amendment: this is a real issue about whether Foley wins or whether the minister wins, and at the moment it is Foley 1: minister 0. The government has the capacity, and there is no question that it has the money, because minister Rann trotted out about $20 million as an inducement for a fourth university. He has

$20 million in his back pocket, and all this government needs is between $18 million and $20 million, and it can scrap school fees altogether. But, oh no, the government has to put it off until December 2006. What a pathetic, cowardly, weak, gutless, yellow-bellied government this is.

The committee divided on the amendment:

AYES (18)

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

NOES (22)

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

PAIR(S)

Hall, J. L.	Rann, M. D.
Matthew, W. A.	Conlon, P. F.

Majority of 4 for the noes.

Amendment thus negatived.

Members interjecting:

The CHAIRMAN: Order! Members will leave the chamber or take their seats.

Mr BRINDAL: I rise on a point of order. If we are expected to do our job in this place, we have a right to hear divisions.

The Hon. M.J. Atkinson interjecting:

The CHAIRMAN: Order!

Mr BRINDAL: You can listen, if you will, Attorney. There are no lights and no bells in the Terrace Room; sorry, the lights are there but they are not working and the bells are not working. If you want us to attend divisions could you let us know?

Members interjecting:

Mr BRINDAL: I absolutely object to the Attorney suggesting that it is deliberate on my part; I have not missed divisions before. I believe the vote should be recommitted forthwith.

The CHAIRMAN: Order! The complaints of the member for Unley have been noted and the Clerk has undertaken to investigate the working of the bells and lights in the Terrace Room. The member for Unley's explanation is noted.

Mr BRINDAL: With due deference, Mr Chairman, this is not the first time it has happened to me and it is not the first time it has happened to other members. We have a right—

The CHAIRMAN: The member for Unley has made his point.

Clause passed.

Title passed.

Bill reported without amendment.

The Hon. J.D. LOMAX-SMITH (Minister for Education and Children's Services): I move:

That this bill be now read a third time.

Ms CHAPMAN (Bragg): I want to make clear at this time that the opposition opposes the third reading of the bill. I am disappointed that the government has not taken the opportunity to deal with this matter expeditiously. They have had three and a half years. They had an opportunity to deal with it in the next six months and, their having not done so, we indicate that the opposition opposes the bill.

The house divided on the third reading:

AYES (22)

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

NOES (20)

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

PAIR(S)

Rann, M. D.	Hall, J. L.
Conlon, P. F.	Matthew, W. A.

Majority of 2 for the ayes.

Third reading thus carried.

SITTINGS AND BUSINESS

The Hon. J.D. LOMAX-SMITH (Minister for Education and Children's Services): I move:

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

Motion carried.

MINING (ROYALTY) AMENDMENT BILL

The Legislative Council agreed to the bill without any amendment.

PITJANTJATJARA LAND RIGHTS (REGULATED SUBSTANCES) AMENDMENT BILL

The Legislative Council disagreed to the amendments made by the House of Assembly, for the reason indicated in the annexed schedule.

Amendment No. 1—
Clause 5—delete the clause.
Amendment No. 2—
Clause 7, page 3, lines 17 to 40 and page 4 lines 1 to 21—
Delete all words in these lines.
Amendment No. 3—

Clause 9—delete the clause.

Schedule of the reason for disagreeing to the foregoing amendments: because the amendments are inappropriate.

FIRE AND EMERGENCY SERVICES BILL

The Legislative Council agreed to the bill returned herewith with the amendments indicated by the annexed schedule, to which amendments the Legislative Council desires the concurrence of the House of Assembly.

No. 1. Clause 3, page 9, lines 3 and 4—
Delete the definition of ***associate member*** and substitute:
appointed member of the Board means a member of the Board appointed by the Governor under section 11(1)(e);

No. 2. Clause 11, page 15, lines 31 to 36—
Delete paragraphs (e) and (f) and substitute:
(e) 5 members appointed by the Governor of whom—
(i) 2 must be persons appointed on the nomination of the South Australian Volunteer Fire-Brigades Association; and
(ii) 2 must be persons appointed on the nomination of S.A.S.E.S. Volunteers' Association Incorporated; and
(iii) 1 must be a person appointed on the nomination of the LGA.

No. 3. Clause 11, page 15, lines 37 to 39—
Delete subclause (2)

No. 4. Clause 11, page 16, lines 3 to 37—
Delete subclauses (4), (5) and (6) and substitute:
(4) The Governor may appoint a suitable person to be the deputy of a member of the Board (including an *ex officio* member of the Board) and that person may, in the absence of that member, act as a member of the Board.

No. 5. Clause 12, page 16, line 39—
Delete "associate" and substitute:
appointed

No. 6. Clause 12, page 17, line 1—
Delete "associate member of the Board (other than a member under section 11(1)(f))" and substitute:
appointed member of the Board

No. 7. Clause 12, page 17, lines 5 to 7—
Delete subclause (3)

No. 8. Clause 12, page 17, line 8—
Delete "associate" and substitute:
appointed

No. 9. Clause 12, page 17, line 14—
Delete "associate" and substitute:
appointed

No. 10. Clause 13, page 17, line 22—
Delete "associate" and substitute:
appointed

No. 11. Clause 13, page 17, lines 24 to 26—
Delete subclause (3)

No. 12. Clause 14, page 17, line 29—
Delete "(and voting)"

No. 13. Clause 14, page 17, line 31—
Delete subclause (2) and substitute:
(2) 5 members of the Board constitute a quorum of the Board.

No. 14. Clause 14, page 17, line 32—
Delete "*ex officio*"

No. 15. Clause 14, page 17, line 35—
Delete subclause (4)

No. 16. Clause 14, page 18, line 7—
Delete "*ex officio*"

No. 17. Clause 18, page 20, lines 13 to 23—
Delete subclause (3) and substitute:
(3) The Advisory Board consists of the following members appointed by the Minister:
(a) 1 member appointed to be the presiding member of the Advisory Board; and
(b) 2 members appointed on the nomination of the South Australian Volunteers Fire-Brigade Association; and
(c) 2 members appointed on the nomination of S.A.S.E.S. Volunteers' Association Incorporated; and
(d) 1 member appointed on the nomination of the LGA.

No. 18. Clause 18, page 20, after line 27—
Insert:
(4a) At least 1 member of the Advisory Board must be a woman and at least 1 member must be a man.

No. 19. Clause 18, page 21, after line 12—
Insert:
(9a) 4 members of the Advisory Board constitute a quorum of the Board.

No. 20. Clause 18, page 21, line 13 and 14—
Delete subclause (10)

No. 21. Clause 71, page 46, line 9—
After "local government" include:
, at least 1 being a suitable person to represent rural councils,

No. 22. Clause 71, page 46, after line 15—
Insert:
(va) a nominee of the Minister, being a person who is a practising pastoralist and who resides outside local government boundaries;

No. 23. Clause 84, page 56, after line 9—
Insert:
(3) If, in the opinion of the Chief Officer, a rural council has failed to comply with subsection (1), the Chief Officer may refer the matter to the Minister to whom the administration of the *Local Government Act 1999* has been committed (with a view to that Minister taking action in relation to the council under that Act).

No. 24. Clause 85, page 56, after line 19—
Insert:
(4) If, in the opinion of the Chief Officer, a Minister, agency or instrumentality of the Crown has failed to comply with a preceding subsection, the Chief Officer may refer the matter to the Minister.
(5) If a matter is referred to the Minister under subsection (4), the Minister must ensure that a written response, setting out the action that the Minister has taken or proposes to take, is provided to the Chief Officer within 28 days after the referral of the matter to the Minister.
(6) The Minister must—
(a) at the same time as the Minister provides a response under subsection (5)—provide a copy of the initial correspondence from the Chief Officer, and of the Minister's response to the Chief Officer, to any member of the House of Assembly whose electoral district includes any part of the land in question; and
(b) within 3 sitting days after the Minister provides a response under subsection (5)—cause a report on the matter to be provided to both Houses of Parliament.

No. 25. New clause, page 63, after line 29—
Insert:
99A—Fire control measures by owners of land in certain circumstances
(1) Subject to this section, an owner of land may, if he or she believes on reasonable grounds that it is necessary or appropriate to do so in order to fight a fire that is on, or immediately threatening, the land—
(a) light another fire (despite any other provision of this Act);
(b) clear any vegetation (despite any provisions of another Act).
(2) A person may only act under subsection (1)—
(a) if he or she is acting with the concurrence of an officer of SACFS; or
(b) if no officer of SACFS is present or in the immediate vicinity and he or she is acting with the concurrence of a member of SACFS; or
(c) if no member of SACFS is present or in the immediate vicinity.
(3) No liability will attach to a member of SACFS, or to the Crown—
(a) with respect to a decision to concur, or not to concur, with the taking of any action under this section; or
(b) with respect to the taking of any action by an owner of land under this section.

No. 26. Schedule 6, page 94, after line 37—
Insert new clause as follows:
17A—Presiding member of Commission

(1) Despite section 11(1)(a) of this Act, the person first appointed to be the presiding member of the Board of the South Australian Fire and Emergency Services Commission need not hold the position of Chief Executive of the Commission.

(2) The following provisions will apply if a person is appointed pursuant to subclause (1):

(a) the person will be appointed on conditions determined by the Governor and for a term specified in the instrument of appointment;

(b) the person will be taken to be an *ex officio* member of the Board for the purposes of the other provisions of this Act.

SUPERANNUATION FUNDS MANAGEMENT CORPORATION OF SOUTH AUSTRALIA (MISCELLANEOUS) AMENDMENT BILL

Received from the Legislative Council and read a first time.

STATUTES AMENDMENT (ENVIRONMENT AND CONSERVATION PORTFOLIO) BILL

Consideration in committee of the Legislative Council's amendment.

(Continued from 3 May. Page 2468.)

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

That the Legislative Council's amendment be agreed to.

This amendment was supported by the government in the other place. We realised that there was an omission in the Wilderness Protection Act in that it did not pick up the amendments that were made some time ago to other national parks legislation. That meant that native title protection of that land would be maintained, if it were to be made a wilderness protection area. Amendments have been made to the National Parks and Wildlife Act to protect land which might become a national park and which would still be subject to native title, but similar provision was not made in the Wilderness Protection Act. We fixed that up in the other place. It is just a legal protection so that, if land is made subject to wilderness protection, the rights of potential Aboriginal owners are not lost.

The Hon. I.F. EVANS: That is our understanding of the amendment and that is why we are supporting it.

Motion carried.

ENVIRONMENT PROTECTION (MISCELLANEOUS) AMENDMENT BILL

Consideration in committee of the Legislative Council's amendments.

(Continued from 5 May. Page 2558.)

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

That the Legislative Council's amendments be agreed to.

I indicate that the amendments moved in the other place are supported by the government. Once again, all these amendments were initiated by the government in the other place. Most of the amendments flow from undertakings I gave to the member for Davenport in the most part, one to the member for Chaffey and one to the member for Bragg. I will go through them for the benefit of the committee. I have sent letters to members of the house, all parties and the Independents, indicating what we were doing and why we were doing it.

There is an amendment in relation to protection against self-incrimination; that is, amendments to clauses 5, 45, 46, 47, 52 and 53. This followed issues raised by the member for Davenport during debate. The government supports the amendment to the bill whereby the protection against self-incrimination would be reduced only for those companies that undertake a prescribed activity of environmental significance not holding an accredited licence. The amendment provides greater incentive for good performing licensees to attain accreditation, as well as retaining protection for smaller operations not licensed under the Environment Protection Act 1993.

The second amendment relates to administering agencies' delegation powers—and they are amendments to clause 17. Following discussion generated by the member for Davenport during debate regarding the power of administering agencies to delegate to profit-making entities, the government supports an amendment to the bill to make the delegation powers of administering agencies under proposed new section 18C consistent with the Local Government Act 1999 as such sections will no longer allow for a delegation to other persons or a committee of persons. The Local Government Association has been consulted regarding this amendment and does not oppose this position.

In relation to the environmental nuisance offence, there is an amendment to clause 39. Following issues raised by the Minister for the River Murray (the member for Chaffey) during debate, the government supports an amendment to the bill so that the environmental nuisance offence in section 82 of the act becomes a two-tiered offence, including a strict liability offence and an offence retaining the mental element. In line with the government's commitment to increase penalties, as occurred with the two more serious environmental offences of the act via the Statutes Amendment (Environment Protection) Bill 2002, the maximum penalty for the environmental nuisance offence with intent or recklessness is double for a body corporate, being $60 000, while the penalty for a natural person remains at $30 000.

The proposed new strict liability offence will have a penalty of $15 000 for a body corporate, or a $4 000 fine or a $300 expiation for a natural person. The amendment of the environmental nuisance offence is consistent with the two more serious two-tiered offences of causing serious environmental harm and causing material environmental harm.

In relation to the powers of authorised officers, there is an amendment to clause 43. Once again, following issues raised by the member for Davenport during debate on the proposed new powers of authorised officers relating to the seizure of vehicles, the government supports an amendment to the bill to ensure consistency with the existing powers for an officer inspecting or entering a vehicle. In relation to notification requirements, there are amendments to clauses 48 and 54. Following issues raised by the member for Davenport during debate, the government supports an amendment to the bill whereby if an order, such as a post-closure environment protection order, is registered onto land the EPA must send or deliver a letter to the owner and occupier advising of their obligation to notify the EPA in the event that they cease to own or occupy the property.

In relation to the award of costs in appeals, there is a new clause 60A. Following a submission by the member for Bragg during debate, the government supports an amendment to the bill providing the ERD court with some guidance regarding the awarding of costs in an appeal. Part 13 of the act outlines the appeals that may be made to the ERD court

and is silent upon the issue of costs. By way of comparison, the District Court also hears administrative appeals in the administrative and disciplinary division of that court. Section 42G of the District Court Act 1991 provides that for administrative appeals cases costs are not generally awarded, but the court has the discretion to award costs in the interests of justice, if so required. Section 42G, 'Costs and ancillary orders, etc, on appeals', provides:

(1) The court may, on an appeal, make any ancillary or consequential order that the court considers appropriate.

(2) However, no order for costs is to be made unless the court considers such an order to be necessary in the interests of justice.

Accordingly, the government has prepared a similar amendment to provide guidance to the ERD court when hearing administrative appeals pursuant to section 108 of the act. Some issues were raised during debate for which I propose administrative solutions, rather than legislative amendment, and I outline these.

In relation to the jurisdiction of administering agencies, following issues raised by the member for Davenport during debate in the House of Assembly, I have considered whether to increase the flexibility of the jurisdiction of a council as an administering agency to administer the act for certain licensed premises. The act currently allows the EPA to delegate to a council any power or function of the EPA and, therefore, the EPA may delegate to a council the powers to administer the act for a particular licensed site. Therefore, in the event that a local council expressed an interest in administering the act for the purpose of a licensed site, and the operator accepted this regulation, the EPA, also satisfied with this arrangement, could delegate the power to the council under the current delegation powers in section 115 of the act. Through such a delegation the council officers would be undertaking on-ground work. However, the EPA would retain the role of the administrator and decision maker which is necessary for the EPA to fulfil its obligations to regulate licensed activities. Accordingly, amendment to the act is not required.

I think this was the matter that the honourable member raised in relation to remote or rural councils where there might be one or two licensed premises. In relation to the notification of cost recovery amounts following issues raised by the member for Davenport during debate, I have considered how best to inform people of costs that may be recovered in the proposed new section 135 of the act. I am advised that the EPA will include such notification requirements in the compliance and enforcement guidelines stating that notification should occur if a warning is given or when the EPA does anything that may lead to a cost recovery action under section 135 of the act. A list of prescribed costs that may be recovered from a person for future contraventions of the act will be provided to the affected person.

The LGA/EPA subcommittee of the EPA board is developing a formal agreement to outline the support package from the EPA to those councils willing to act as an administering agency. The agreement will also outline the consequent responsibilities of participating councils. One of the objectives of the agreement is that councils put policies in place that support staff to efficiently administer and enforce breaches of the act. Accordingly, the EPA/LGA subcommittee will be asked to include within the formal agreement operating policies to advise of cost recovery amounts that may be recovered from a person in the event that they contravene the act. Such notification would occur if a warning is given or when the administering agency does anything that may lead to a cost recovery under section 135 of the act.

The Local Government Association has advised that it supports this position. That is an explanation of the amendments in the other place and also the government's response to some of the issues raised during debate in this house, which I undertook to consider further. I thank the opposition for its inquiries or suggestions, which we have been able to take on board, and I hope that makes the bill a stronger bill.

The Hon. I.F. EVANS: I thank the minister for that explanation of those amendments and the administrative matters. The minister's explanation of the amendments is as the opposition understands them. I place on record our thanks to the minister for following through on his commitment to look at each of those issues and move amendments in the other place to cover most of them, some raised by opposition members, the member for Bragg and I, as well as by the Minister for the River Murray. While it improves it, the opposition still has some reservations about some aspects of the bill, but at least we feel we have contributed some improvement to the bill and obviously will be supporting the amendments.

Motion carried.

HERITAGE (HERITAGE DIRECTIONS) AMENDMENT BILL

In committee.

(Continued from 7 April. Page 2255.)

Clause 17.

The Hon. J.D. HILL: The last time we were discussing this we reached the issue of which body should make decisions about how funds are expended, whether it should be the Heritage Council or the department taking advice from the Heritage Council. At the moment the Heritage Council makes recommendations to the minister and then they are ratified. The intention of the reform of the Heritage Act was to have the Heritage Council (the former Heritage Authority) involved in strategic processes rather than sitting around spending a lot of time deciding whether a small amount of money goes here, there or somewhere else. When we reached this stage last time, I said that I would have another look at the legislation to try to tighten up the words.

I think the claim by the member for Davenport was that a minister—I assume not me but some minister at some stage in the future—might use a white board to allocate funds to marginal electorates. So, we looked at how we can amend the legislation to strengthen it, and what we have come up with is the amendment that I have before the house today. I move:

Page 11, after line 12—Insert:

(2) Section 12—after its present contents as amended by this section (now to be designated as subsection (1)) insert:

(2) The minister must, in relation to the management and application of the Fund, seek and consider any advice (provided from a strategic perspective) from the council.

In other words, the council would be talking about the kinds of values or processes rather than getting into the nitty-gritty of it all. That would make much better use of the resources of the council, which we want to have that broader strategic role.

The Hon. I.F. EVANS: The minister's amendment will not do anything to solve the problem that we raised previously when debating this issue, because to provide advice from a strategic perspective will simply be very broad guidelines at best, whereas the other grant programs that government has

in recreation and sport or other programs, such as the minister's own environment fund, are very specific in their recommendation as to where the grant should go.

What will happen with this fund (and I accept that I do not have the numbers to change it) is that the advice will be strategic, it will be a broad brush, as long as you can land it somewhere in the oval, somewhere in the paddock—we do not mind where it is—and that leaves it open to the minister's discretion. Currently, it is not open to the minister's discretion. The authority has far more input under the existing model, not the first proposed model, as distinct from the current proposed model. This still does not resolve that problem, but I accept that the minister has tried to do something about it, and all that really has happened is that we have come up with a different set of words for saying that the minister has as broad a discretion as possible as long as it is somewhere within the strategic perspective of the advice. I do not think it has resolved the matter, but I accept the fact that I do not have the numbers to beat the minister on this issue.

The Hon. J.D. HILL: I would seek to persuade the member that I have done more than just that. In fact, if one looks at what is in the act at the moment, one will see that it states:

> The minister may, after seeking and considering the advice of the authority, apply money from the fund in furtherance of the objects of the act.

So, I have a broad discretion now. I can ignore the advice of the authority, as long as I have sought it, and then apply the fund in furtherance of the objects of the act. Under the language we have put in, in relation to the management of the fund, I must seek and consider any advice—

The Hon. I.F. Evans interjecting:

The Hon. J.D. HILL: Theoretically, I could still ignore it. So, it is not really different. It is just trying to make it clear that the council is about strategic stuff around the detailed stuff, and I would say in that regard that the South Australian Aboriginal Heritage Fund under the Aboriginal Heritage Act 2001, the Aquaculture Resources Management Fund under the Aquaculture Act 2001, the Natural Resources Management Fund under the Natural Resources Act 2004 and the Environment Protection Fund under the Environment Protection Act 1993 are all examples of funds that may be applied by the relevant minister without the specific need to seek the advice of committees and councils established under those statutes. But, of course, the practice is that that is done.

This is really consistent with legislation that was introduced by both sides of parliament going back 12 or 13 years. I guess one can always point to those discretions and say they may be misused, but if governments misuse them oppositions find out and there is a political price to pay and, basically, that is how our system works.

The Hon. I.F. EVANS: I want to thank the minister for the list of funds that might be rorted between now and the election. Thank you for bringing it to my attention.

Amendment carried; clause as amended passed.

Clauses 18 and 19 passed.

Clause 20.

The Hon. I.F. EVANS: This amendment relates to section 14. I want to obtain some clarification as to what the minister has in mind when he says in clause 14(1)(f)(i) 'entered in any register of places of natural or historic significance'. Can the minister give me some examples of what those registers might be? The way I read it, they are not necessarily commonwealth registers, but can they be commonwealth registers? If someone is registered on there, how do they know? Also, how does someone's home or property get into a local heritage zone or a local heritage policy area? It is in the development plan. The question is then how are they notified that their home is about to be put into those zones or policy areas? The way I understand it is that that does not necessarily make them local heritage listed; that is a different thing. Someone can be local heritage listed, their property can be in a local heritage zone or a local heritage policy area but they are all registered on the heritage register. I am wondering, in respect of the latter two, at least, how the owner is notified about that?

The Hon. J.D. HILL: I will just make a general point, then I will try to answer the specifics if we have that advice. This is not about creating a new category of protection. It is really trying to say that there is a whole variety of pieces of legislation that give heritage protection to objects—there are national lists, state lists, local government lists and heritage areas, as the member has said. What it is trying to do is to say that, regardless of the list you are on, there should be one central register where you can find that out so that, if someone were to be purchasing a property, they could go to that register and say that it is on this list or that list.

The Hon. I.F. EVANS: Who establishes the register?

The Hon. J.D. HILL: This legislation establishes the register, and it will be run through DEH, and particularly through the heritage—

The Hon. I.F. EVANS: That is the main register.

The Hon. J.D. HILL: Yes.

The Hon. I.F. EVANS: Any register of places established by legislation? Any register of places established by council by-laws? Clause 14(1)(f)(i) states, 'any place within the state entered in any register of places'. Where is the underpinning guideline as to what becomes any register of places?

The Hon. J.D. HILL: I understand what the member is saying. The commonwealth listings in the current inventory will be augmented in the new single register by the addition of world heritage listings. There is currently one in South Australia, which is the Naracoorte Caves fossil mammal site. The commonwealth listings that will be incorporated into the new register database under clause 14(1)(f)(i) are the register of the national estate (the RNE), which records almost 3 000 places in South Australia; the national heritage list, with no South Australian entries so far, but for which the old and new parliament houses are an imminent listing; and the commonwealth heritage list, which contains seven places within South Australia.

The RNE (that is, the Register of the National Estate) is maintained under the Australian Heritage Council Act 2003. The national and commonwealth heritage lists were created under the Environment Protection and Biodiversity Conservation Act 1999. Then, of course, in South Australia there would be whatever places are listed under this legislation and whatever places are listed through the sustainable development act or, currently, the Development Act, which is looked after by the Minister for Urban Development and Planning.

So, there is a range of pieces of legislation which create some sort of heritage listing. We are trying to assemble them all on the one database for the convenience of the community so that people actually know what is being protected and so those managing heritage in South Australia understand what is going on elsewhere and what other people are doing. I think it is really a simple thing we are trying to do. It is not creating new protection: it is just recording that protection in the one spot so people know—so that developers, for

example, know when they are thinking of buying a parcel of land whether it has some sort of heritage protection.

I am also advised that local zonings and policy areas and listings occur when they are created by a plan amendment report and are incorporated into a development plan under the Development Act.

The Hon. I.F. EVANS: Yes, I understand the second part. I am asking about when your home is going to be locally heritage listed. You are notified, and there is a process you can go through to make your submission. You can be ignored, but at least there is a process. What is the process for the local heritage zone and the local policy area other than the fact that it is in the PAR? The way I read it is you do not get notified personally. That is my concern. If the minister is unsure, he might like to check between the houses, because if you are saying to someone that their property is suddenly going to end up in the local heritage zone or local heritage policy area and that is going to be put on the heritage register without their knowledge, that becomes an issue.

The Hon. J.D. HILL: No.

The Hon. I.F. EVANS: I think the owners have a right to know their house is going on the register.

The Hon. J.D. HILL: The reason I say no is that this is controlled by another piece of legislation which I am not responsible for. But, if something is in a heritage zone or a heritage policy area, there are certain levels of protection given to buildings. In fact, I was in Goolwa the other day to present some heritage awards on behalf of the Alexandrina Council and we were talking about the heritage zone in Goolwa. I asked how that operated and was told by some of the council staff that people know their homes are there and know what it means and how the planning rules work. There is a high standard for what you can do in buildings within that zone.

I assume—and I will have this clarified for the member and if there is a requirement for some amendment I will bring it forward—that when a PAR is being created the owner of the land in that zone is consulted or notified. A circular or letter would go out and they would be asked to provide commentary, and I guess there would be some sort of public meeting and all the sorts of things that happen when a PAR is being introduced. Eventually, when it is introduced, the planning laws that are created would apply to anybody who owns and purchases property in that area. How subsequent owners of those properties get to know about it, I guess, is an interesting question. Possibly they go to the council. I do not think it would be on a section 7 notice but it may well be, and I will get that clarified. It may well be a section 7 listing. They are interesting issues and maybe when the development bill comes before the parliament they could be debated at that stage.

This is about saying, however they got on a list, whatever that list is, if it has to do with heritage, there will be a central register where you, the property owner or somebody else, can find out what applies to those properties. That is really what this is about. However, I will look at it in terms of notification because I agree with the member that it is reasonable, fair and appropriate that people should be notified, but I just do not know enough about how that legislation works because I am not responsible for it.

The Hon. I.F. EVANS: I have two more questions on this section. What is the minister envisaging under the regulations? This is still under section 14(1)(h). There is a broad regulation-making power to put anything you want onto the register. I am wondering what the minister envisages.

The Hon. J.D. HILL: This was included on the advice of parliamentary counsel to provide flexibility in the event that some unforeseen matter came up. I guess the nature of these amendments that we have now takes into account that there have been a number of issues that have not been covered by the legislation which have now been included. It is just a general catch-all. There is no particular intention to use it at this stage.

The Hon. I.F. EVANS: I will watch that one with interest. Section 14(2) provides:

> The Council may, in relation to a place or area entered in the Register—
>
> (a) include. . . any. . . feature or attribute that, in the opinion of the Council, forms part of, or contributes to, the heritage significance of the place or area.

Does that give the council a broad enough power to heritage-list a view or a valley or the like? How broad is that power? The wording is, 'feature or attribute that. . . forms part of, or contributes to, the heritage significance of the place or area'. In the definition 'place' includes any site or area, with or without improvements (that means land); any location, item or thing that constitutes a place within the state; and any land where a place is situated, any subsurface area, any part of a place, etc. From the way in which I read that, they will be able to heritage list a view—for instance, the Piccadilly Valley in the Mount Lofty Ranges, which Mount Lofty House overlooks and where the minister's officers occasionally have planning seminars. When they look out over the Piccadilly Valley, one of them may get the idea of heritage listing it. I think the provision is so broad that they could do that. I was wondering if my interpretation is correct.

The Hon. J.D. HILL: I will get some more formal advice. I make a couple of observations. If you were wanting to heritage list a particular piece of landscape or 'a view' (as you have described it), you would use the PAR process or the heritage zoning capacity in the Development Act, so that you could protect a landscape, as I understand it. I know from a debate in my own electorate that a particular constituent has a state heritage-listed property and that the view of the property itself—that is, the placement of the property in its own circumstances—is something that is taken into account by heritage officers now.

If you have a particular property and someone wants to build a great big building next to it which completely swamps it and is out of scale with it, that is something which can cause objection by the heritage staff. It is not the view from the place but it is the view of the place. It is the contribution of the building within its context which is heritage listable, not what you see out the window of the building, as I understand it. I am also told that this provision formalises and clarifies current administrative practice, anyway, whereby particular components of a place which constitute part of its heritage significance are nominated as appropriate in the register description. These commonly include outbuildings, boundary walls and fences and, in particular cases, might also include such things as garden layouts or plantings, wells or tanks, external cellars, gazebos or arbours, driveways or path statuary or sculpture, gutters or channels, fountains or ponds, graves and so on.

Clause passed.

Clause 21.

The Hon. I.F. EVANS: Clause 21 amends section 15. Why has the minister changed where the public inspection occurs from the office of the authority to an office designated by the minister?

The Hon. J.D. HILL: The point is that there is no office of the authority.

The Hon. I.F. Evans: So, the council will not operate out of an office?

The Hon. J.D. HILL: It does, but it is not an office of the authority, in the sense of the office of the postmaster general or the motor registry office is a place within a building. The intention is that it would be at the Department for Environment and Heritage but it is just clarifying that that is the way in which it works. The Heritage Branch is located there. The authority meets from time to time. It does not have its own office, as such. It might meet in a town hall one day or in Parliament House another day. There is no particular location where it meets all the time. The intention is to try to put as much of this as we can on the internet so that people can access it everywhere. It also gives us flexibility so that we can make the material available at public libraries or National Trust offices throughout the state. It is not trying to limit the capacity of the public to access it; it is really trying to extend it.

The Hon. I.F. EVANS: The bill deletes from section 15(2) the words 'or in the inventory attached to the register'. I want a guarantee from the minister that there will be no less information available on the public register.

The Hon. J.D. HILL: The inventory is now becoming part of the register, so there will be extra rather than less.

Clause passed.

Clause 22.

The Hon. I.F. EVANS: What is the difference between 'heritage value' and 'heritage significance'?

The Hon. J.D. HILL: It is really just modernisation of the language. In particular, it is trying to get away from the sense of the word 'value' having a monetary meaning. It is really saying that this is important heritage for whatever the appropriate significant reasons are, not that it is very valuable. It is trying to educate the public that 'heritage significance' is not necessarily something which can be reduced to a dollar term.

Clause passed.

Clause 23.

The Hon. I.F. EVANS: This clause amends section 17. Subsection (2)(2a) provides that the power to provisionally enter a place and register can be delegated. How broad is this delegation power?

The Hon. J.D. HILL: As the member would know from when he was a minister, delegations can be made to certain officers, and those officers can make other delegations. There is this telescoping of delegations. Is that the basis of your question?

The Hon. I.F. EVANS: Yes.

The Hon. J.D. HILL: The answer is already in the legislation. Section 8 of the Heritage Act provides:

(1) Subject to this section, the authority may delegate powers and functions under this act to—

(a) a committee established by the authority; or

(b) a member of the authority; or

(c) any other person.

(2) A delegation under this section is revokable at will and does not derogate from the power of the authority to act itself in any matter.

(3) The authority may not delegate the following powers or functions:

(a) to confirm a provisional entry in the register;

(b) to decide not to confirm a provisional entry in the register;

(c) to remove an entry from the register;

(d) to alter an entry in the register by excluding part of the place to which the entry applies.

Clause passed.

Clause 24.

Mr HANNA: I move:

Page 15—

Line 13—

Delete 'If' and substitute:

Subject to this section, if

After line 16—

Insert:

(1a) If the minister is of the opinion that the period that applies under subsection (1) should be extended in the public interest, the minister may, by notice in the Gazette, extend that period for a further period of up to 3 months.

Lines 24 and 25—

Delete ', subject to any direction of the minister under this section,'

Lines 28 to 41, page 16, lines 1 to 9—

Delete subsections (6), (7), (7a), (7b) and (7c) and substitute:

(6) If, after considering the representations (if any) made under this section, the Council is of the opinion that the entry in the Register should not be confirmed, the Council must remove the provisional entry from the Register.

Page 16—

After line 21—

Insert:

(6) Section 18(9)—after 'allowed by the minister' insert:

under this subsection

Lines 36 and 37—

Delete subsection (1b)

The intention of this series of amendments is to empower the Heritage Council to make appropriate decisions about items it enters provisionally on the heritage register. At the moment, the regime (which persists in the bill) is that the minister has the power to direct the removal of items from the register, and he can do so on the ground of public interest. Based on track record, a fairly strong argument is that 'public interest' can pretty well mean what the minister wants it to mean. I am not concerned about this minister, but future ministers may be tempted, for commercial reasons, to utilise the power to allow items of heritage significance to be developed, demolished and otherwise lost to us. The very purpose of the act, and, generally speaking, of the amendments brought forward by the minister is to preserve items of significant heritage in South Australia.

It is interesting to compare the regime I put forward now with that of the Environment Protection Scheme in South Australia. When we dealt with matters of environmental protection, the same minister was at pains to spell out that officers should be at arm's length from the minister. The member for Stuart engaged in a lengthy and passionate debate with the minister, when the member for Stuart felt that the minister should be much more involved in the decision-making process in regard to enforcing environmental laws. The minister, quite properly, said that officers in that respect should be at arm's length. In other words, in our Westminster system, the minister is ultimately responsible, but we set up agencies and empower them to do their work without fear or favour and particularly without political interference.

I want to employ the minister's argument in relation to matters of heritage, and I say that, once the Heritage Council is set up, it should be empowered to make the decisions within its scope. When it decides that an item is worthy of heritage protection, it should ultimately be empowered to put it on the register. It should not be subject to the whim of the

minister, or even a decision allegedly in the public interest, to remove that item from the register. That would be a slap in the face for the Heritage Council.

Although I refuse to believe that this minister would be party to such a thing, it is certainly foreseeable that future ministers might be prey to commercial considerations, and wanting to do a favour for a developer, and working to take an item off the heritage register. Nonetheless, I think that there ought to be a concession to the element of public interest which is currently in the system. I do that by the next amendment in my name, which would allow the minister to essentially put the pause button on the heritage council's considerations. Amendment No. 2 in my name would allow the minister to say, 'Hang on, there is a public interest issue here. There may be reasons for allowing a particular development to proceed and steamroll over this item of heritage significance. I want you to be able to think about that. I want you to consider more submissions and delay your decision to finally put that on the heritage register.' That seems to be a reasonable process which allows all issues to be considered by the Heritage Council.

I come back to the point that I feel most strongly about, that is, that a minister should not be able to essentially override a heritage council decision and remove items from the register. I think that would be contrary to the principle of political non-interference which the minister very eloquently argued when it came to matters of environmental protection.

Finally, this very day there was a group of protesters outside Parliament House focusing purely on heritage issues. It is actually an issue which excites a lot of public passion, usually not in the abstract. Usually it focuses on a particular project, and so on. But there are many, many examples where community groups have evolved to protect particular sites of heritage significance. It is something that matters to the community. I do not want to see a future minister embroiled in that sort of community protest because of a decision which is perceived to be political interference and which may indeed be based on wrongful motives dressed up as public interest. We can avoid that by adopting the regime for placing items on the heritage register which I have set out in these amendments. I look forward to the minister's contribution in response.

The Hon. J.D. HILL: I thank the member for his contribution. At this stage I will speak about his first five amendments to save the committee time. I indicate that I will support amendments Nos 1, 2 and 5, which provide some sensible provisions to extend periods under which things can be considered, and that does give an extra option, I guess, to the minister of the day. I do not support amendments Nos 3 and 4, which would significantly curtail the discretion of the minister. As the member for Mitchell knows, the current legislation gives the minister those broad powers that are retained in this legislation. In fact, in this legislation we are trying to make the exercise of those powers more transparent, so, if this legislation goes through, any future minister will have to reduce to writing the reasons that he or she has for rejecting a heritage listing, and provide those to the authority. I am not exactly sure where they go, but there is certainly a written form.

The point I made previously to the member for Mitchell was what do you do as a minister when you get contrary advice from your authorities. The heritage authority says that the Milang shacks, for example, ought to be heritage listed, and the coastal protection people within my department say that there should not be shacks on those mud flats, and I have to make a decision. The member says, 'That's okay. Let those who disagree go to law,' but the law deals essentially with private interests, rather than public interests. The minister of the day is the one who has to make a decision about what is in the broader interest of the public, and that is why I think that discretion ought to be maintained. I think that is the only time I have exercised a discretion since I have been a minister.

There was another case where it was under contemplation—I think the member for Davenport had it under contemplation when he was the minister—in relation to the bull rings out in the Salisbury council area, I think it was. It was quite an interesting building, but it was right in the middle of a potential development site, and it would have been a very expensive thing to repair. We were trying to work it out in an appropriate way. Unfortunately, someone burnt the thing down. So, the decision I had to make, and the heritage authority, the Salisbury council and the owners of the property—

Mr Hanna: What was the developer doing that night?

The Hon. J.D. HILL: I could not answer that question at all, but it certainly disappeared. That is the only other example about which I am aware. So, this is not a power that is used frequently. I make the same point to the member for Mitchell that I made to the member for Davenport: if governments start to use these powers inappropriately in the same way I have referred to previously, the public twigs, the media and the opposition finds out, and you get burnt, and you do not survive. You have to exercise your discretion appropriately, but it is a discretion I think the minister of the day ought to have. What we are trying to do is to make it a more transparent exercise of power and ensure that people know the reasons for it so that, if there are claims of malfeasance, they can be checked.

The member for Mitchell's amendments to page 15, line 13 and page 15, after line 16 carried; the amendments to page 15, lines 24 and 25 and lines 28 to 41 and page 16, lines 1 to 9 negatived; and the amendment to page 16, after line 21 carried; clause as amended passed.

Clause 25 passed.

Clause 26.

Mr HANNA: I move:

Page 16, lines 36 and 37—Delete subsection (1b)

This amendment is a variation on the same theme. The minister's proposal is that there should be no appeal against the removal of a provisional entry at the direction of the minister under this provision. We have just had a brief debate, where the minister has insisted on retaining the right to remove a provisional entry on the heritage register. I have explained why I think that is wrong and could be abused.

However, we now have the issue of whether there should be an appeal, given that I have lost that debate. Given that future ministers may effectively override the Heritage Council, I believe that, if the minister takes that extreme step and takes a significant item off the register, there should be an appeal as a matter of law. In other words, let the courts decide what is in the public interest. That may not seem to fit very well with a lot of the pronouncements of the Rann Labor government; nonetheless, there is a long series of court decisions about what lies in the public interest, and I think that is a more appropriate place for a reasoned discussion, rather than a minister who might be acting on submissions from a very influential developer on the one hand or reacting

to media discussions which are based on irrelevant or irrational motivations on the other.

So, I believe that there should be a legal appeal from the minister's decision if he or she goes to the extreme step of removing an item from the heritage register which the Heritage Council believed was significant enough to provisionally place on that register. That is the purpose of the amendment.

The Hon. J.D. HILL: I suppose the advice I have is legalistic, in one sense. There is the way the minister makes a decision and there is the content of the decision—so, it is the process and the substance. If the minister makes a decision for bad reasons or does not properly take into account all the things that should be taken into account then, as I understand it, administrative law would apply and you would be able to appeal that process. There would be some sort of review process and the minister would have to go back and do the thing again properly.

However, the courts will not want to substitute themselves for the minister in relation to making a decision about public policy. They do not want to be in the position of judging whether the Milang shacks are more significant as heritage items than the public benefit of having the local riverine environment looked after, because that is outside the judicial system and is really a matter of public policy. That is what governments make decisions about; not the courts. So, I think there is already provision to appeal a bad decision-making process but, really, the content of a decision is very much one for government. We do not support the member for Mitchell's amendment.

Mr HANNA: So, is the minister giving an assurance that judicial review of the minister's decision will persist?

The Hon. J.D. HILL: That is the advice I have from parliamentary counsel. Pretty well all administrative decisions are subject to that kind of review.

The Hon. I.F. EVANS: I understand the minister's answer to the member for Mitchell in relation to process versus content. I had the joy of having a decision go to the High Court on a matter—

The Hon. J.D. Hill: Did you win?

The Hon. I.F. EVANS: Yes; we did. It was very good advice from the agency, I might say. Just to clarify in my mind (following the member for Mitchell's second question), I assume they can appeal on the basis that certain information was not considered, for instance. I also assume that the minister is going to get advice from the agency about whether something should stay on the list or not and then, if some information is not provided, that is the basis for the appeal—otherwise I do not see where the appeal lies, because it is clear that as long as you give a direction to remove then there really is no appeal.

The Hon. J.D. HILL: I cannot give you legal advice. I think that is a point, but—

The Hon. I.F. Evans interjecting:

The Hon. J.D. HILL: I was saying that the nature of the advice was legalistic: I was not saying I was giving legal advice. In administrative law there are general provisions, and I guess it is all to do with equity and fairness and so on. If, in the process of making a decision, a minister does not properly take into account the things that a minister ought properly to take into account, that may well be the particular facts of the circumstance. An automaton could perhaps sign dockets without reading them or having taken into account advice from the department; I cannot articulate in a codified way the sort of things a court might take into account, as it may depend on the circumstances of the case, but they would be the sorts of things a minister acting in good faith ought to take into account as determined by a court at a particular time. More particularly, the minister might take into account things that he ought not to take into account: his brother-in-law or sister-in-law, or the fact that he had been given a large donation or he or she had a particular interest in the property, which is almost getting into criminality, and those kinds of things.

Amendment negatived; clause passed.

Clause 27 passed.

Clause 28.

The Hon. I.F. EVANS: I am interested in why the council has a discretion to decide whether or not to seek public submissions.

The Hon. J.D. HILL: The advice I have is that the current bill proposes reverting to the intent of the 1992 bill, allowing the Heritage Council to exercise discretion on the advertising of applications. This would allow for straightforward applications to be processed rapidly, for example, under delegation to the heritage branch, and for the fee in such cases to be reduced accordingly.

The rationale for reinstating the discretionary measure is that the council would be unwise to proceed without advertising in any situation that was likely to prove controversial. The bill imposes no time frame for advertisement and submissions. This is to be determined by the council according to the circumstances of each submission.

It is important to note that the result of this act has been that the cost and time involved in applying for a certificate of exclusion have rendered them of little appeal. Anticipated demand is mainly from vendors or purchasers needing a timely response, for example, during a cooling off period.

Clause passed.

Clauses 29 to 32 passed.

Clause 33.

The Hon. I.F. EVANS: I place on record the opposition's opposition to the penalties involved. The opposition has taken a view on this bill that we do not support the big increase in penalties. In this clause the penalty is increased fivefold from $15 000 to $75 000. There seems to be no justification anywhere in the bill or the second reading speech (or even an example) as to where the $15 000 penalty was not sufficient.

So, while the opposition acknowledges that the $15 000 penalty might have had to be increased slightly, to increase something 500 per cent seems to us quite extraordinary. The opposition has therefore taken the position that, while it is not opposed to realistic penalties being implemented within the bill, a five-fold increase is ridiculous. Our opposition to the penalty under this clause can be taken as a general position in relation to an increase in penalties throughout the whole bill. We will not be calling for a division on the clauses but we want it recorded that that level of increase is ridiculous.

The Hon. J.D. HILL: I appreciate the member's comments, and I will try to explain. We need a penalty in place to act as a deterrent to those who are contemplating taking, particularly, items from the Ediacran fossils in the state, items that if removed will be permanently damaging to that site and can be taken overseas and sold for vast sums of money. A person contemplating doing that may well think, '$15 000 is not such a big fine. I could get $100 000 for it and, if I have to pay $15 000, the risk is worth taking if I can do it more than once.' The penalty is probably a bit light on when you take into account the value of the items that might be taken

and the permanent damage that could be done to something that is unique and timeless.

Clause passed.

Clause 34 passed.

Clause 35.

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

Page 20, line 11—
After 'artefacts' insert:
of heritage significance

To clarify the intention, we are adding the words 'of heritage significance' after 'artefacts' so that they will not just be green bottles hanging in the backyard: they will be artefacts that have some sort of heritage significance.

The Hon. I.F. EVANS: This clause deals with sections 27 and 28 and contains a provision whereby, if required by the council, a person must surrender the relevant object to the crown. Is compensation paid, or do you just give it up?

The Hon. J.D. Hill: Which line are you referring to?

The Hon. I.F. EVANS: Clause 35, which deals with section 27(2)(d).

The Hon. J.D. HILL: No compensation is contemplated, because I guess the legislation is saying that these things are crown assets and, essentially, they cannot be privatised. I am just checking to see whether there are general laws about treasure if it is found. A national treasure is an equivalent, and I do not think that there is a reward in that either, but I am not entirely sure.

The Hon. I.F. Evans interjecting:

The Hon. J.D. HILL: That is a metaphoric national treasure. I am talking about the finding of crown jewels, a plate or something like that, which is owned by the state and needs to be returned to the state. That is more likely to happen in Britain than in Australia.

The Hon. I.F. EVANS: It is all very subjective, though, is it not? At what point does it have heritage significance? It has heritage significance when the council says it does. Someone might have spent 20 years of their life and a considerable sum of money searching for something and a committee one Tuesday night, on a whim, might say, 'Cough it up.' Do you think it is a bit subjective?

The Hon. J.D. HILL: I refer the honourable member to section 16, which attempts to satisfy what is of heritage significance. Rather than get bogged down, I am happy to have a closer look at this and check with what happens under national legislation in similar circumstances. I know that this provision has been around for a very long time, not necessarily in relation to matters of archaeological or heritage significance but certainly in relation to other matters. Maybe we could do that, if the honourable member was happy with that at this stage.

Amendment carried.

The Hon. I.F. EVANS: Clause 35 deals with section 28, which provides that a person must not without a permit damage, destroy or dispose of a specimen removed from a state heritage place, whether removed before or after the entry of that place on the register. I am wondering how someone would know that that place will one day be in the register. If I go to the Ediacaran area in the Flinders Ranges, and if I am the first bloke there—I'm Reg Sprigg or whoever—and I take a fossil and think, 'This is a unique specimen,' then five years later it is placed on the register, I have committed an offence according to this new section. I wonder how I know something is about to go on the register. It says whether it is removed 'before or after the entry of that place on the register'. For instance, if Mitch Williams as an enthusiastic youth went into the Naracoorte Caves before it was state heritage registered and took out an object, has he now committed an offence?

The Hon. J.D. HILL: I will try my understanding of it, and I will see whether my experts nod or shake their head. I think this is when something is determined to be a state heritage place, but before it is put on the register, to stop someone saying, 'This is being declared a state heritage place; I will grab that item before the process of documentation is completed.' We are saying you cannot do that. I do not think it would apply to Mr Reg Sprigg, but I will check that.

The Hon. I.F. EVANS: I think you are right: it is not meant to, but it does.

The Hon. J.D. HILL: I will just check. No matter how clumsy it is, this is the current law. I will give an undertaking to the member for Davenport that I will have a closer look at it for him. This is the law at the moment. It is not something novel we are doing.

Clause as amended passed.

Clause 36.

The Hon. I.F. EVANS: Given that the council has the power in the bill to ask for the object to be surrendered to the Crown, why do you need a power under clause 36 which deals with new section 29? New section 29(2)(c) says that everything belongs to the Crown. Given that you have the power to ask for it to be surrendered, why does everything have to belong to the Crown? Why do you need both?

The Hon. J.D. HILL: Are you talking about new section 29(1)(c), perhaps?

The Hon. I.F. EVANS: I am sorry, yes.

The Hon. J.D. HILL: The honourable member refers to paragraph (c), which provides:

> provide the geological, palaeontological or speleological specimens, archaeological artefacts or other objects recovered or removed in the course of the operations are to belong to the Crown;

That replaces paragraph (b), which provides:

> provide the geological, palaeontological specimens or cultural artefacts recovered in the course of the operations are to belong to the Crown.

It is just restating but adding the bit relating to caves, effectively.

Clause passed.

Clause 37.

The Hon. I.F. EVANS: New section 29A(1) provides:

> A person must not, without consent of the council, buy or sell an object. . .

I assume that buy and sell includes trade, swap or gift.

The Hon. J.D. HILL: I do not believe so.

The Hon. I.F. EVANS: I can give it away, or I can trade it for something of value. I can swap it, but I cannot buy or sell it without the council knowing. That is the provision that we have got. Is that the intent of the government?

The Hon. J.D. HILL: This is about buying and selling. The other disposal means are covered elsewhere in the legislation, I am advised. I understand that new section 28 covers at least some of those other matters. New section 28(1) provides:

> A person must not, without a permit from the council, damage, destroy or dispose of. . .

The Hon. I.F. EVANS: The minister will need to clarify this for me. Section 28 refers to damage to or disposal of objects while section 29A talks about related matters of objects. Under section 29A you cannot buy or sell an object and under section 28 you cannot damage, destroy or dispose

of an object. So, the minister would interpret trade, swap or give to be 'dispose of'.

The Hon. J.D. HILL: If I do not capture it this time, I undertake to give a more definitive explanation to the honourable member. What this related matter is about is trying to stop the trade, the selling or buying of objects, and trying to stop a market for these kinds of objects. If you were going to a Sunday market somewhere and someone was selling heritage artefacts and you saw something that you fancied, you should be cautious about buying it because you may be buying something being sold without permission.

It is similar to the law that stops people buying and selling stolen goods generally in Sunday markets or a trading post kind of arrangement. It is trying to capture that kind of offence, so it is at that lower level of fine. But I will happily have another look at it and obtain a better explanation for the honourable member, if he likes.

Clause passed.

Clauses 38 and 39 passed.

Clause 40.

The Hon. I.F. EVANS: I realise that this clause, in particular section 32(2), is essentially a rework of the words already in the existing act. I am wondering why the minister has left it so that the occupier who is bound by the heritage agreement is not consulted in the construction of the heritage agreement. I could envisage circumstances whereby the owner of the land who negotiates the heritage agreement with the minister or the authority could place conditions on the occupier that the occupier may not be happy with, and it may transfer cost from the owner to the occupier without the occupier knowing, because there is no consultation with the occupier, as I read it.

The Hon. J.D. HILL: There are a couple of points there. One cannot always consult with the occupier because the occupier may change over time. One could argue, I suppose, that the current occupier should be given a right, but that would tend to derogate from the rights of the owner of the land, and I am not too sure that many landowners would want to have a precedent established in such a way that their rights to enjoy, dispose of and make decisions about their land would be constrained by the person who happens to be the current occupant. It would be a little like saying that you cannot put a new roof on your house if the current occupant does not like it.

It is your responsibility with respect to how you look after land. I guess these details would have to be worked out in the nature of the lease that existed between the owner and the occupant. I assume that, if the occupant had certain rights that the heritage agreement was altering, it would affect the lease arrangements between the two parties and that would give the occupant, I suppose, some legal redress. But to make it the law that the occupant should have certain rights in relation to the land, I think, would be taking it an extra step. This is just the current act, but I think the member made that point, anyway.

The Hon. I.F. EVANS: I realise that it is the current act. I read the current act one quiet night. I understand what the minister is saying in relation to future occupiers. Take Beechwood Gardens as a live example. I am the owner and I have it leased to a tenant. So, the tenant is the occupier and I am the owner. There is a significant cost in maintaining Beechwood Gardens, so I agree with the minister to undertake certain works, and in the heritage agreement I say that they will be undertaken by the occupier. This binds the occupier, even though the occupier is not consulted.

I am not saying that the occupier should be able to necessarily stop it—and we can contemplate this between the houses. Certainly, I am not arguing about future occupiers, because they are registered. However, with respect to the current occupier at the point of negotiation I think this would override the lease. It would be interesting to see which document would have legal status because the legislation, I think, might be a higher authority in the law. I am not sure. I just raise it with the minister and he can obtain advice between the houses and have a look at it. He does not need to respond.

Clause passed.

Clauses 41 and 42 passed.

Clause 43.

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

Page 25—

Lines 4 to 9—Delete subsection (1) and substitute:

(1) A person who—

(a) intentionally or recklessly damages a state heritage place; or

(b) engages in conduct knowing that it will or might, or being recklessly indifferent as to whether it will or might, destroy or reduce the heritage significance of a state heritage place,

is guilty of an offence.

Maximum penalty: $120 000.

(1a) A person who undertakes any action that—

(a) damages a state heritage place; or

(b) destroys or reduces the heritage significance of a state heritage place,

is guilty of an offence.

Maximum penalty: $50 000.

Line 18—Delete '(1) or'

Under clause 43 (this is parliamentary counsel's explanation), a person will be guilty of an offence if the person (a) damages a state heritage place or (b) engages in conduct that destroys or reduces the heritage significance of a state heritage place, the maximum penalty to be $120 000. A person will be guilty of an offence if the person (a) fails to take reasonable care of a state heritage place or (b) fails to comply with any prescribed requirement concerning (i) the protection of a state heritage place or (ii) the state of repair of a state heritage place, the maximum penalty to be $25 000. Various defences would apply. So that is a two-levelled offence.

The background of this is that damaging a state heritage place so as to destroy or reduce its heritage value is an offence under section 36 of the act, but only where damage can be proven beyond reasonable doubt to be intentional and a criminal conviction obtained. Proof of intent for a criminal conviction is problematic and the application of this provision is thereby seriously limited. As an example, legal advice in the case of ongoing vehicle damage to the state-listed southern boundary wall of the Glenside Hospital concluded that it would be very difficult to prove beyond reasonable doubt that the wall had been intentionally damaged and that prosecution under section 36 would not necessarily lead to an order to make good the damage—although clearly it had been damaged. The Heritage Act also currently does not protect against loss of heritage significance through neglect.

The intent of the bill as tabled in the lower house proposes deleting the need to prove intent in relation to damaging a state heritage place. Subsequent concerns raised by the member for Davenport about the adequacy of defence provisions in the case of accidental or non-malicious damage in conjunction with the penalty of $120 000 have led me, after consulting with the chair of the State Heritage Authority, to propose an amendment to the bill that splits the offence

into two levels. The $120 000 penalty would apply to intentional or reckless action, and a lower penalty of $50 000 would apply without requiring proof of state of mind. A new provision contained in the proposed section 36(2) redresses the inability of the current act to enforce minimum standards of care for state heritage places or to take action in cases of neglect.

The draft of the bill released for public consultation allowed for the prescription of maintenance standards, but the term 'maintenance' has been dispensed with subsequently because of its connotation of an unduly high minimum standard of repair. The final version of the bill communicates the intention of the provision more clearly by the use of the terms 'reasonable care', 'protection' and 'state of repair'.

Amendments carried; clause as amended passed.

Clauses 44 and 45 passed.

Clause 46.

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

Page 26, line 13—Delete 'the Council' and substitute:
the Minister
Page 27—
Line 1—Delete 'the council' and substitute:
the Minister
Line 3—Delete 'the Council' and substitute:
the Minister
Line 6—Delete 'the Council's' and substitute:
the Minister's
Line 8—Delete 'the Council' and substitute:
the Minister
Page 28—
Lines 25 and 26—Delete 'under the authorisation of the Minister' and substitute:
with the leave of the Court
Line 23—Delete paragraph (b)
Page 29, lines 17 to 20—Delete subsection (13)

New section 38A introduces civil enforcement proceedings to the Heritage Act which presently contains only a very limited opportunity for civil enforcement. The act presently contains no general power to apply to court for an order in respect of an alleged contravention. All offences must be the subject of either prosecution or no enforcement. This is one reason that compliance with the act has not been well enforced in the past. Prosecution as a reactive measure cannot be used to avoid or prevent damage. Additionally, with its lengthy procedures, high burden of proof and limited sentencing options, it does not lend itself well to enforcing contraventions of the Heritage Act.

The intention of this clause is to allow the minister, local council or other person to apply to the ERD Court, sitting in its civil jurisdiction, for the following orders: to cease certain conduct; to undertake certain conduct (for example, to make good order); to pay an amount into the fund on account of financial benefit resulting from the breach; or to pay into the fund a monetary penalty. Civil remedies such as these are an important tool in enforcement and compliance of environmental laws. They have been widely used in other South Australian environmental legislation as well as the environmental legislation of other states. They are available to enforce contraventions that can also be prosecuted as offences. Gerry Bates, the leading Australian commentator on environmental law, notes that, 'Many, if not most, statutory schemes for environmental protection allow for civil enforcement of the legislation.' That is in his book *Environmental Law in Australia*, Fifth Edition, at page 168.

Civil enforcement proceedings for any breach, including one that is also a criminal offence, are available under the Water Resources Act, the Environment Protection Act, the Natural Resources Management Act, Native Vegetation Act and Development Act. An example is this: civil proceedings for the key offence of unlawfully taking water have been used recently by the Department of Water, Land and Biodiversity Conservation under the Water Resources Act. In each case the ERD Court has made orders for significant exemplary damages to be paid by the respondent, reflecting the very serious nature of the contravention. Exemplary damages ordered have been well in excess of the maximum fine for the offence itself.

Clause 46 (section 38A) is one of a number in this bill that will help to bring enforcement provisions of the 12-year old Heritage Act into line with modern standards of environmental law. I think that addresses the general issues.

The Hon. I.F. EVANS: I will speak not exactly to the minister's amendment but rather to the clause and we can do it all at once. The opposition has taken the position of not supporting civil penalties. It did not support them in the EPA act, from memory, and, for the sake of consistency, is not supporting the principle here. Although, I do acknowledge that, in my view, this model of civil enforcement is a more independent model because the court deals with the issue. Under the EPA act, if my memory serves me correctly, the supervising authority deals with the issue. There is a slightly different model to civil enforcement here but the opposition opposes those two points—that is, this one and the previous one—and asks that it be recorded.

Amendments carried; clause as amended passed.

Clause 47.

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

Page 29—
Line 23—Delete 'the council' and substitute:
the minister
Line 27—Delete 'the council' and substitute:
the minister

These amendments make it plain that it is the minister and not the council who would initiate some of these matters. The expressed powers to be given to a person authorised by the council are to enter and inspect a place, or to inspect any object in a place for the purpose of determining whether the provision of the act is being or has been complied with, or for the purpose of investigating any alleged contravention of the act. The current act has a provision in section 39 to authorise a person to enter and inspect a place, specimens or artefacts to determine or record their heritage value or to monitor compliance with the heritage agreement.

The authorised person may make photographic or other records with the consent of the occupier by warrant issued by a magistrate. It has been the practice to research and record the heritage significance of a place with the knowledge of the owner. In the cases where the owner has not given consent to enter a place, photographic or other evidence has been obtained from other public resources and there have been no instances where a magistrate has been asked to issue a warrant. Heritage agreements are voluntarily entered into and it is unlikely that monitoring compliance would require a warrant.

The current provisions remain but will be supported by a more general provision to authorise entry to make a determination of whether this act has been complied with or to investigate alleged contraventions of this act. It makes it possible to follow up other matters such as the condition of a place that may arise after the entry of a place or object in the register. This supports the heritage directions objectives of conserving places and related objects of state heritage

significance and the 'minister' is substituted for 'council'. The exercise of these powers has to be agreed to by the minister.

Amendments carried; clause as amended passed.

Remaining clauses (48 to 55), schedule and title passed.

Bill reported with amendments.

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

That this bill be now read a third time.

I would like to thank the house for the swift passage of the legislation and the member for Davenport, in particular, for his assistance. I have undertaken to consider two or three issues, and I will do that between here and the other place. I place on the record my thanks to parliamentary counsel Richard Dennis and my assistants, particularly Leanne Burch, Peter Wells, Sue Averay and Peter Croft, who worked very hard over a period of time to prepare this legislation. I thank them very much indeed.

The Hon. I.F. EVANS (Davenport): The opposition would also like to thank those officers for their briefing of the parliamentary party room and the shadow minister in particular. I also thank Richard Dennis for his advice from time to time on the bill and the minister for undertaking to chase up those matters between the houses.

Bill read a third time and passed.

ADJOURNMENT

At 11.27 p.m. the house adjourned until Wednesday 25 May at 2 p.m.