HOUSE OF ASSEMBLY

Thursday 27 September 2007

The SPEAKER (Hon. J.J. Snelling) took the chair at 10.30 a.m. and read prayers.

VISITORS TO PARLIAMENT

The SPEAKER: I draw to members' attention the presence in the chamber today of 10 students from Norwood Morialta High School, who are guests of the member for Morialta.

CRIMINAL LAW (SENTENCING) (ABOLITION OF SUSPENDED SENTENCES) AMENDMENT BILL

Mr HANNA (Mitchell) obtained leave and introduced a bill for an act to amend the Criminal Law (Sentencing) Act 1988; and to make a related amendment to the Correctional Services Act 1982.

Mr HANNA: I move:

That this bill be now read a second time.

I bring this bill before the house as a result of widespread community revulsion as to what is seen as a light sentencing option. I refer to sentences of imprisonment being suspended. Since 1969 our sentencing regime in South Australia has had the option of suspending sentences of imprisonment. However, there are two reasons why there is community unrest about this process. First, the community sees an offender, perhaps in relation to a serious crime, walk free from the court at the conclusion of those proceedings. That is one thing. Secondly, the nature of the judge's reasons in these cases seems to be a contradiction: it seems to affront commonsense. The legislative provisions require the judge to go through this process, a two-step process. The provisions require the judge to consider the circumstances of the offence, a whole range of factors concerning the defendant, the nature of the offending, the impact on the victim and so on and whether that warrants a sentence of imprisonment.

The first stage of the process is the judge saying that this is a very serious matter and requires the person to go to gaol—the most serious form of punishment we have in our society. Then a second part of the process takes place under section 38 of our sentencing legislation. This allows the judge to go through a further reasoning process and say that, because of the exceptional or particular circumstances of the defendant in this case, the judge will suspend the sentence of imprisonment. In other words, it is left hanging like a sword over the defendant during the period of the bond into which the defendant must enter. That bond may carry with it various conditions such as medication, abstinence from drugs and so on. The problem is that the community sees the judge quite correctly say that this or that particular crime is a very serious crime, the offending is serious—someone has been bashed, raped or indecently assaulted—and then the judge says that, despite the seriousness which warrants a sentence of imprisonment, he will suspend the sentence.

What people see in the community is the defendant walk free, so both the immediate outcome of the court proceedings and the nature of the reasoning are offensive to many in the community. The law falls into disrepute and judges fall into disrepute if there is widespread concern to the point of people being repulsed and offended by the sentencing process. I can see that, in part, this is due to the way in which cases are reported. We all know that newspapers are out to sell more copies. The newspapers will pick on the most sensational cases and the most offensive of cases—and they do stir up very strong emotions—but the reality is that there is a real substance behind the complaints made in the newspapers which is reflected in this concern I have mentioned. The feelings of the community in relation to this matter cannot be put down to inaccurate reporting, although I can see that there is an element of that sometimes.

I will just mention one case as an example—and this was, for me, largely what led me to consider bringing this legislation into the parliament. It had a particular impact for me, because it happened to a constituent of mine. A 17 year old was subject to the following treatment: four adults broke into his house, kidnapped him, took him in their car for six or seven hours, torturing him, whipping him with a belt and punching him so that he was seriously injured as a result, both physically and psychologically. The result was a series of suspended sentences. The offenders were young, and perhaps they had prospects for rehabilitation, to some extent. But the shocking nature of the crime and the deliberate and sustained assault upon my teenage constituent left many in the community feeling very angry and repulsed by the fact that those young offenders—they were adults—were able to walk free from court at the end of the day. So, leaving aside—

Members interjecting:

The SPEAKER: Order! I will not have members bickering on either side of the chamber while another member is speaking.

Mr HANNA: The legislation I have introduced does not blindly call for harsher treatment of offenders, and we need to look carefully at how it might work in practice. Certainly, I am talking about taking away one of the sentencing options for judges. However, it is still possible, under statute, to impose a bond and for offenders to make a promise that they will be of good behaviour for a specified period and promise that they will undergo certain treatment, abstain from drugs or not do certain things. That can still be done. There is a penalty under the law for breaching a bond, in any case.

However, the prospect of a judge saying, 'This is a very serious offence. It warrants imprisonment, but you can walk free today after entering into a bond,' is removed. I am very mindful, however, of the importance of rehabilitation, and I know that many offenders under a bond under the current system are doing things or refraining from things which are conducive to their rehabilitation.

I have built this into the legislation I bring before the house by also stressing the importance of rehabilitation. The fact is that one of the primary policies of the criminal law should be the rehabilitation of the offender. So, I propose that section 10 of the Criminal Law (Sentencing) Act should be amended to have there as a primary policy of our law the desire to promote the care, correction and guidance necessary to help defendants to become useful members of society. This legislation, in a way, is a two-edged sword. On the one hand, it takes away a sentencing option but, on the other hand, it reinforces the importance of rehabilitation.

I can help with some statistics, after having researched the issue of suspended sentences. We have the experience in other jurisdictions to assist us. In New Zealand five years ago suspended sentences were abolished, and it did not necessarily mean that there were more custodial sentences. There was certainly a greater variety in sentencing, on one reading of the

figures. England has recently started using suspended sentencing again, after severely restricting its use in 1991. Last year, Victoria's Sentencing Advisory Council recommended that suspended sentencing be phased out over three years and, indeed, it has been restricted.

The best figures I can find in relation to the bonds that are entered into by offenders given suspended sentences are as follows. It seems that about 20 per cent of those given a bond will reoffend during the period of the bond. Most of those will then serve a period of imprisonment for whatever offence they commit during the period of the bond in addition to the original penalty imposed upon them. Those figures are interesting, because advocates of suspended sentences say that this statistic shows how well they are working, because 80 per cent of people who escape an immediate custodial sentence go straight for at least the period of the bond. On the other hand, those who are critical of suspended sentences say that if 20 per cent of people are reoffending anyway may be they should have been put in gaol in the first place.

While on the subject of prisons I must say that we do not have adequate means of rehabilitating prisoners at present. The assistance given to prisoners with a mental illness—and that makes up more than half of the prison population—is woefully inadequate. We need better psychological care and better programs in prison for the inmates to overcome whatever addictions and behavioural issues they have—which got them there in the first place. However, we have to assume that things will only get better in terms of rehabilitation. I have stressed that in this legislation. I think members, if they are honest in speaking to their local community, will find that there is a lot of support for this proposal. In 1969, when we first had suspended sentences in South Australia, the options were much more limited. It was very black and white: you were either in prison or let off with a fine or something like that. These days there are many more options in terms of bonds and community service and, therefore, there is not such a need for suspended sentences as there was nearly 40 years ago. With those remarks, I commend the legislation to the house. I look forward to members' support, if indeed they follow the wishes of their local community.

Mrs GERAGHTY secured adjournment of the debate.

CONSTITUTION (NUMBER OF MINISTERS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 26 July. Page 672.)

The Hon. M.J. ATKINSON (Attorney-General): The government opposes the bill. Currently, South Australia is served by 15 ministers, each of whom is dedicated to portfolios of the state's affairs and able to give those affairs the time and attention that they require. As the state develops matters such as federal-state relations and water security gain new importance. Also, South Australians have become more aware of issues such as social inclusion, mental health and climate change. It is only natural, therefore, that the number of ministerial positions may rise over time.

Mr Hanna: Put out a press release each time!

The Hon. M.J. ATKINSON: I am sorry that the member for Mitchell has not fulfilled his ambition to be one of the 15, but the number of ministers was set at 15 in 1997 by the previous Liberal government, which also introduced a system that included delegate or junior ministers. In 2002 the Labor government put the current arrangement of 15 fully-fledged ministers in place and removed provision for junior ministers. By convention in this state there is and should be no inner cabinet.

An inordinate amount of parliament's time was spent debating the changes in 1997 and 2002. I do not wish that any more of parliament's time be used in this manner. The member for Mitchell has not made a convincing argument for change. He has consistently tied to the number of ministers to constitutional reform. The matter of the number of ministers is best left to a time when such wider issues are on the agenda.

Mr WILLIAMS (MacKillop): I want to correct the record. This is a fine move which has been brought to the attention of the house by the member for Mitchell. It gives members of the house the opportunity to question what this government has been doing and where the government is going in the future. First, I want to correct the record by explaining fully what the previous Liberal government did in 1997 in relation to the number of ministers. The previous Liberal government in 1997—

The Hon. M.J. Atkinson interjecting:

Mr WILLIAMS: And the Attorney-General is right: I was an Independent Liberal in late 1997. I think I sat in the house for one week in early December 1997. I think the house sat on 3 December 1997.

The Hon. M.J. Atkinson interjecting:

Mr WILLIAMS: I did, indeed. I do not think I got to make my maiden speech until 1998; and I did do outstanding work on that speech and it is still one of the finest speeches I have made in this house. In relation to this bill, in 1997 the then Olsen government did increase the number of members who were designated as ministers. It raised the number from 13 to 15 but there were five junior ministers—I think they were outside of cabinet—and the pay rate was such that the total cost to the taxpayer did not change. The total cost to the taxpayer remained the same, because the five junior ministers did not receive the same rate of pay that the cabinet ministers received. That is the first thing that the Attorney omitted to explain. The other thing was that the five junior ministers, to my memory—and I think I am correct in saying this—also did not have permanent staff.

The Hon. M.J. Atkinson interjecting:

Mr WILLIAMS: Well, if my memory serves me correctly, their role was more akin to that of a parliamentary secretary than a cabinet minister and, as such, I think I am correct in saying they did not have permanent staff. I stand to be corrected if I am wrong, but I think that is the case.

The Hon. M.J. Atkinson interjecting:

Mr WILLIAMS: The Attorney interjects, referring to the previous member and minister Robert Brokenshire, who went on to be a senior minister in the Olsen government at a later time, and I think he is confusing himself. But it is my understanding that the current government even has parliamentary secretaries who have permanent staff attached to them. That is my understanding—and, again, I will stand corrected if I have this wrong.

The Hon. M.J. Atkinson interjecting:

Mr WILLIAMS: And the Attorney confirms that. But what the government did to shore up its political survival was increase the number of cabinet ministers who were fully fledged, fully paid and fully staffed from 13. I remember the opposition questioning the Premier about this—and this is the Premier who, from time to time, and more regularly of late,

gets it wrong. I remember the Premier stating categorically that they were only going to 14 and not beyond. Notwithstanding that, the legislation that came through the parliament did actually change the number to 15. But the Premier, hand on his heart, told the people of South Australia he would not go to 15, it was 14. And he made—

The Hon. M.J. Atkinson interjecting:

Mr WILLIAMS: Well, you might question why the Premier's popularity is falling, because people are getting sick of his antics. They are getting sick of the Premier making statements and, in a number of cases, within weeks, having to backtrack. But the Premier, hand on his heart, told the parliament and told the people of South Australia that 14 was where he was going. He made the deal with Rory McEwen and took him into cabinet and, of course, at a later date, as we all know, the same deal was cut with Karlene Maywald and we now have a cabinet of 15. So we have gone from a cabinet of 13 to an inner cabinet of, I think, 10 with five junior ministers who I think have no staff.

The Hon. M.J. Atkinson: You think!

Mr WILLIAMS: I think, and I said I stand to be corrected. My memory tells me that they do not have staff.

The Hon. M.J. Atkinson: Wouldn't you have done some research before speaking?

Mr WILLIAMS: Well the Attorney-General interjects and asks whether I should have done some research. I am correcting what his lack of research has brought to the house, because I am correcting his statement and filling in the gaps that he, I think, deliberately left.

The Hon. M.J. ATKINSON: I have a point of order, Mr Speaker. The member for MacKillop just said I deliberately falsified remarks to the parliament, and I ask him to withdraw.

Mr Williams: I did not say that.

The SPEAKER: I did not hear the remarks but, if the member for MacKillop did accuse the Attorney of misleading the house, he needs to withdraw the remark.

Mr WILLIAMS: I will withdraw any remarks that go to that. What I said is I think that the Attorney deliberately left out some information. I did not say he misled the house, and I was explaining to the house what I thought. I think that is what happened.

So, now we have a situation where we have 15 cabinet ministers, parliamentary secretaries that have staff, and a government that actually does very little. So we have an overbloated executive which does very little and, what it does do, it gets wrong continuously. The poor old Minister for Infrastructure, almost on a daily basis, is having to explain how he gets costings so wrong. The poor old Minister for Water Security has to explain that when she stands up there and says the government is going to build a new wall at the Mount Bold reservoir and it will be about $850 million, 'That was not really a quote. Don't hold us to that.' Well, why did she say it when now it seems it is going to cost about $1.5 billion or $1.6 billion?

So what are all these people doing? This is why the opposition supports the member for Mitchell. We have a government that is using its bloated ministry to hide from the parliament and the people of South Australia, because now we have a situation where we have portfolio areas split between the two houses. So, if we ask a question of the Minister for Health he says, 'No, that's for the Minister for Mental Health and Substance Abuse, and you have to ask that question of the other person in the other place.' And it is happening right across. We have the situation with water. In estimates committee I remember asking the Minister for Water Security some questions about water security and, lo and behold, the matters that I was inquiring into she told me were not her responsibility and they were the responsibility of the Minister for the Environment and Conservation.

It is just one of the downsides of having so many ministers that the workload is spread so thinly that even the government, I believe, is totally confused as to who is doing what. I think we have no fewer than four or five ministers, sir and I do not think anyone knows—

The Hon. M.J. ATKINSON: I have a point of order, sir. Standing orders say the vice-regal representative may not be referred to in debate or called in support of a particular proposition.

Members interjecting:

The SPEAKER: Order! The standing order refers to unbecoming words regarding the vice-regal representative. I did not hear what the member for MacKillop said. I do not think he would have used the words. So, if the words were in reference to the government rather than to the Governor, there is no point of order. The member for MacKillop had one minute left; does he want it?

Mr WILLIAMS: I do, sir. Thank you, Mr Speaker. You are a very fair speaker, much fairer than the state's Attorney. There are no fewer than four, five or six ministers—nobody really knows; I can not work it out and I know the media representatives who cover this place cannot work it out—covering the issue of water across South Australia. Every time we ask a question of one particular minister, they say, 'No, there's money involved in that; the Treasurer is handling that' or 'No, that's far too important; the Premier is handling that.'

I heard on the radio the other day that when the Minister for Environment and Conservation was asked a question about wind power, she refused to answer it. She was asked specifically about the impact of wind turbines on the environment. She said, 'No, I can't talk about that. That's not my responsibility; that's the Premier's responsibility.' We have an overbloated ministry, a government that is confused within itself; how on earth can it bring good governance to South Australia?

Time expired.

Mr VENNING (Schubert): I did not intend—

The Hon. M.J. Atkinson interjecting:

Mr VENNING: Mr Speaker, I am amazed. What is wrong with the Attorney, because he seems to have had a funny week this week? I did not intend to speak on the matter but, from listening to be Attorney's contribution a little while ago, I am forced to. When one thinks about this—

The Hon. M.J. Atkinson interjecting:

Mr VENNING: Watch this space. In South Australia, we have 15 ministers—with our population base—with 13 in this chamber, and I agree with this government putting most of its ministers here. I have always agreed. I often question whether all the ministers should be in this chamber. I think it is a ridiculous and extravagant situation that we now see in South Australia. It is financially extravagant, because it costs a lot of money: we are looking at $3 million $4 million per minister to set up a ministry. It is also politically extravagant, because we know why the government has so many ministers. All this for a government that does less every year. So, why this government employs more to do less beggars belief, particularly when everybody says we are short of money, that we need to spend money on infrastructure, we need resources

spent on roads, and that we need money everywhere—yet the government has the extravagance of 15 ministers. At least $8 million per annum could be saved if the government pruned back two ministers.

We are doing less. We do not administer the railways any more; we have outsourced SA Water; our power and ETSA is no longer in government control and the buses are outsourced.

The Hon. M.J. Atkinson: Why is that?

Mr VENNING: That has nothing to do with this debate. This debate is about what the government does with its ministry. It is out of my hands, and there is nothing I can do about that at the moment. Buses have been outsourced, and I note that the government has just renewed contracts, so you cannot blame the previous government for that, because you have gone along with it.

Regarding education, half of South Australia's students now go to private schools. Most of the government's responsibilities have now been handed or smuggled over to local government. It just makes one wonder why we need to have so many ministers. It is not just ministers, it is all the public servants and ministerial staff who go with them. It is a huge cost. It gets to a point where it becomes burdensome because efficiency is lost in government.

Victoria has 18 ministers—that is only three more than we have—but they have four times the population. I just cannot understand how we can justify 15 ministers. We have not heard a single murmur from the government. The government—through the minister—has just said that it is going to oppose this motion. I think it should keep its powder dry on these matters, because it governs with a reasonable majority. It does not have to buy political favours, yet it has. The government quite blatantly appointed two extra ministers to secure its position in the last parliament, not this one.

This bill is certainly worthy of strong support, because I believe that we have some competent ministers. If we had more competent ministers, I think we could get by with 10. So, the government should rack up its best 10 ministers—and it does not have them on its front bench at the moment; it has three, maybe four sitting on the back bench. I would not employ anywhere four or five ministers currently on the front bench. If the government put its best 10 ministers on the front bench, I am sure they could do the job admirably, but we go round and round in circles.

The Hon. M.J. Atkinson interjecting:

Mr VENNING: Because I did not choose to be. I was not at home when there was a knock at the door. In these times—particularly in these straitened times of drought and when the government's finances are severely strained—I think it is the very time to move such a bill. I congratulate the member for Mitchell on moving this bill. Nobody on the other side of the house could tell me, or anybody on this side of the house anything different, particularly the member for Mitchell, because he understands exactly what we are talking about here. This is the time for the government to say, 'Hang on. We are a government of today.'

The Hon. M.J. Atkinson interjecting:

Mr VENNING: I was never in favour of 16 ministers; you can show me in *Hansard*. Don't just put silly ideas into the house. You just put silly thoughts forward. I just cannot understand what sort of week the Attorney-General is having because he seems to be totally out of control every day this week. Back to the theme, I cannot understand why the government cannot, through its political manoeuvring, adopt this idea one way or another and, particularly, with the two extra ministers they have that they do not need. They could be dispatched, given another job or whatever. Certainly, I know that there are rumblings in their own back bench. Some of those members are not happy that you have a couple of ministers there who are not theirs, who believe that the favours did not need to be extended to this parliament.

Mrs Geraghty: Now you're putting silly words in the house.

Mr VENNING: I know that I am being political, but forget that. It is the cost of it. The other thing is that we have a couple of very poorly performing ministers, and I make mention of the Minister for Education and Children's Services. I have been dealing with issues about Nuriootpa High School and I cannot believe that a person can remain there, that she sits there without any judgment being ruled upon her by the government or the other ministers. As I said, if the government was serious about the current situation in a time of drought where the finances of government now will be stretched because of it and where the economy will take a downturn, the government ought to grasp this and say, 'Okay, we will do our bit. We will show the public quite clearly that we are here and we are genuine and that we will reduce our costs by two or even three ministers.' You can do that and, as I said, you put your best 10 on the front bench and you certainly have not.

The Hon. M.J. Atkinson: Who are the best 10?

Mr VENNING: I am quite happy to tell you the best 10 but not now. I have to say that you might be first reserve, Attorney-General. You might not make the cut. I am sure there could be a shuffle, even including the Speaker, because he has proven to be quite a professional young person and he is part of the future, but I just despair at the cost of some of the current ministers. I wonder what they do because, as I said earlier, consider all the jobs we no longer do in this parliament. We have given a lot of duties away, particularly the duties we have given away to the Local Government Association. We expect them to pick up those duties and we do not give them any more money for that, and they are very stressed financially. I believe that if we were able to save some of the money by having, say, three fewer ministers, a few of those dollars could be slipped to local government and it would be an efficient use of taxpayers' money. I commend the member for Mitchell for this legislation; it has been part of my own thought pattern because I believe we should do whatever possible to save money. I think the government ought to be smart enough to say, ' We will trump this and do it ourselves.' I support the bill.

Mr GOLDSWORTHY (Kavel): I, too—

The Hon. M.J. Atkinson interjecting:

Mr GOLDSWORTHY: What was that, Attorney?

The Hon. M.J. Atkinson: Mr Cabinet Secretary.

Mr GOLDSWORTHY: What about it? Have you got an issue with that, Mick? Have you? I, too, feel compelled to make a contribution in relation to this legislation that the member for Mitchell has brought to the house and I commend him on that initiative.

The Hon. M.J. Atkinson: You can take the minutes well enough.

Mr GOLDSWORTHY: You would think he would get over this inane activity, wouldn't you? But no; we live in hope, Mr Speaker. As long as he is going to grace this place with his presence, it is a matter of just enduring it. Getting back to the substance of the legislation before the house, I have a reasonable memory for issues that come before the

parliament and I think it was back in 2002 when the Treasurer introduced legislation to increase the number of ministers from 13 to supposedly 14. However, on close inspection of the legislation at the time, it was not 14 in the bill but a number of 15. To the member for Mitchell's credit at the time, he had the courage, conviction and the guts—and remember that he was a member of the Labor Party then, sitting on that side of the parliament—to stand up in this place and question the second most senior member of the government on the reason why the bill stated 15 and not 14 ministers. I remember clearly at the time that the Treasurer said, 'That it is just in case. Something might happen in the future,' but the reason the Treasurer was discussing the matter of 14 ministers in the legislation was regarding the deal that he had done with the member for Chaffey to bring her into the ministry to try to shore up the numbers.

The reason for that legislation in 2002 was driven by pure political opportunism because you did not like the tenuous arrangements that you had at the time. The member for Mitchell could see right through you like a crystal clear piece of glass as you were totally transparent on what you were trying to do and he was the only one who had the guts, courage and conviction to stand up here and question what his government was doing. Also to his credit, he got finally sick and tired of the nonsense, deception and deceit from the government that he left the party. His electorate recognised that courage and his constituents re-elected him in the March 2006 election.

The Hon. M.J. Atkinson: On your preferences.

Mr GOLDSWORTHY: We were very proud to give our preferences to the member for Mitchell to see him re-elected, because he has the guts to stand up against clowns like the Attorney-General. He has the courage to stand up against members like the Treasurer, the Deputy Premier—the second most powerful member in the government. The people of his electorate recognised that and re-elected him. And all power to him for that success and for bringing in this legislation. But it gets back to the point: in 2002 when the Treasurer tried to wipe it off and sweep it under the carpet—'Oh, it's only been increased to 14'—what did we see? The legislation went through; it was passed. The number was 15. And then what happens? We see the member for Mount Gambier elevated to the ministry. He has been a bonus to the show too, hasn't he? He has been a real bonus to the side, with all the kerfuffle, all the controversy that he has been embroiled in over the last few months with his donations and so on. But I am not here to talk about that necessarily today. The legislation in 2002, to increase from 13 to 15, was based on pure political opportunism: nothing more, nothing less. You can talk until you are blue in the face, you crowd on the other side, and you will convince nobody that there was any reason other than that.

The government's position is in stark contrast to the opposition's position on this. We have 12 members who constitute our shadow ministry, compared to 15. We believe in small government getting out of the way of the general community. I see that there is a piece in the paper today with the Premier waxing lyrical about reducing red tape. Well, how can you reduce red tape by putting another blooming 9 000 public servants in the bureaucracy? I mean, crikey! If that is not hypocrisy, if that is not a total oxymoron, I do not know what is. It just makes a nonsense of any statement that the Premier makes about reducing red tape. We know that the bureaucracy is there, and, to a degree, they help with the binding up of the community with red tape.

An honourable member interjecting:

Mr GOLDSWORTHY: An oxymoron? He's as thick as an ox, isn't he? Part of the bureaucracy's activity is binding up the community with more red tape, not releasing it from red tape. The opposition has a clear point of difference on this matter. When we win government at the March 2010 election you will see a lean and mean, professionally run government, which knows what it is about and which has some clear direction and policies on how to progress the state—compared to the muddling and the fuddling and the prevarication of this current government.

I want to cite a specific example. We have the Minister for Road Safety located in the other place. I would like to know what budget that minister has, because I do not think she has any budget at all. I think she has to work out of the budget for the Minister for Transport, who is located in here. When I ask questions about the very important local issue concerning the Nairne Primary School crossing, for example, it seems that the Minister for Road Safety has no budget whatsoever. She has to go to the Minister for Transport with a begging bowl and say, 'Please minister, I know you are more senior to me around the cabinet table, I don't have any budget for any road safety initiatives as such, please can I have half a million dollars or a million dollars so I can actually initiate some road safety measures in the state?' That is just how ridiculous this 15 member ministry is. They have over 50 responsibilities in total. They have created all these ministers, 15 ministers, and they have had to find jobs for them to do. So they have found these quirky little responsibilities to consume their time. In closing, I certainly support the member for Mitchell in bringing this piece of legislation before the parliament. We know what this government is all about: it is about spin and no substance whatsoever.

Time expired.

Mr RAU (Enfield): The parliament at times can be a trying place. It can be a place where time seems to move in a glacial sort of way, but that is never Thursday morning. It never happens like that on Thursday morning, because on Thursday morning they all come out.

Mr Pengilly: He's out now.

Mr RAU: I am out now. But, I want to say a few things, because the member for Kavel I think today has made one of the best speeches I have ever heard him make in the parliament. I think that those people who are listening to the speech today—

An honourable member interjecting:

Mr RAU: No; it was a good speech. I enjoyed his speech, and I think it was a great contribution, and I also think that the way in which he presented himself, the humour, the logic, was very good, and I congratulate him for that. I enjoyed his speech, I think it was a great contribution. I also think the way in which he presented himself, the humour and the logic was very good, and I congratulate him for that. I actually enjoyed it. I do not want to make this thing sound like *Australian Idol*, I do not want to be like Dicko or Mark Holden or someone, but I would have given the honourable member pretty big points today, and I reckon that if there were one of those things where the viewers had to phone in you would not be going home. You would still be here next week.

That is good, and I give the member for Kavel big points for that, but I listened not only to the presentation and the polish but also to the substance of it—such as it was. One of the things the member for Kavel was very keen to do in his

speech was to hoist the member for Mitchell upon his shoulders and carry him through the cheering throngs of opposition party members, place him in a sedan chair, and carry him about the building as if he were the pontiff. We witnessed today the apotheosis of the member for Mitchell at the hands of the member for Kavel. The member for Mitchell has seldom been treated with such respect and deference, at least in my memory; I have not been here as long as the member for Mitchell, but since I have been here I have not heard anyone speak in such glowing and eulogising terms of the member for Mitchell, and I congratulate him on having been discovered by the opposition—in particular by the member for Kavel. The tributes just flowed and flowed.

Mr Goldsworthy: It is all true.

Mr RAU: He meant it as well; that is the most touching thing, he meant it. Of course, that sincerity came out in his speech and is part of the reason he got such good points; the sincerity oozed out.

However, I would like to say this. I speak on the actual substance of the matter with the confidence that I am secure here in my position next to the pole; there is no self-interest in this, I am secure next to this pillar of the ages. I sit next to it in quietness, read things to better inform myself about the community, and listen. So what I am about to say comes from almost as lofty a position as the member for Kavel. I want to know where the principle is in the opposition's point (I think the member for Mitchell needs to be separated from the remarks I am about to make because he stands in a different position). I believe the fact is that, as eloquent as the member for Kavel has been, he finds it difficult to get past the point—as will all his colleagues who make a contribution on this subject—that this is just a stunt. It is a stunt—start, finish, stunt. The opposition's support for this is a stunt.

The question is not whether there are 10, 12, 14 or 15 ministers. The member says, 'We only have 12.' Well, for goodness' sake, someone has to peel the oranges, someone has to carry the drinks; you cannot all be out there on the field and no-one cheering, there has to be someone at the back of the bus. So for goodness' sake, do not make a virtue out of your miserable necessity.

I think the proof of the pudding is this: in the year 2022, when the opposition stands a chance of perhaps gripping hold of office here for the first time (and the member for Kavel may still be here, because he is a stayer)—

An honourable member interjecting:

Mr RAU: A couple of others will still be here as well. I am not sure about the member for Schubert; he may have moved on but he may still be here. In any event, I will be watching on the television and when that phone call comes from his excellency Mark Holden, or whoever might be holding the position at that stage—

An honourable member: It will be a republic by then.

Mr RAU: A republic, yes; it would be the president of South Australia. I wonder whether there will be 12 commissions in the back pocket of the member for MacKillop as he marches to the governor and accepts the nod as the 57th premier (or whatever it will be by then). As I said, let us see what happens when you confront the issue, but please do not make a virtue out of your sad necessity and say, 'We only have 12.' We did not all come down in the last shower.

However, I want to come back to where I started. The member for Kavel and I have been here for the same period of time. We have served on committees together and he is always a gentleman, but I thought today (even though the critical knockout punch of 'We only have 12' that he delivered turns out to be not quite the same when you look at it) it was a good speech. I enjoyed it. But I think it is a good idea for us all to now move on to whatever is the next item.

Mr PISONI (Unley): There have certainly been some interesting points raised in the debate today, but I want to quote someone who understands how Labor Party politics works and how that party is all about what it can do for its members, its union officials, its members of parliament. An article by Brad Norington in *The Australian* of 24 September states that the West Australian branch of the Australian Nursing Federation has decided it does not want any part of the Labor Party's campaign. The article reads, in part:

> It views the ALP policy as being more about boosting the power of union officials in a consolidated centralised structure. . . rather than helping members through better services or improved conditions,' Mr Olsen says in his letter.

That is the head of the nurses' union in Western Australia. He has seen the light. He has seen how the Labor Party works, how the Amway structure of the Labor Party works, and we have seen how the Labor Party has implemented that in the state parliament here and in the administration of this state of South Australia. There are 15 members—two extra members, and less legislation and fewer bills. Did I get that right, Attorney? Less legislation, fewer bills—

The Hon. M.J. Atkinson: You are learning!

Mr PISONI: —and we are finishing early. The Attorney-General is not on duty today; he is in here purely for the fun of interjecting. Why isn't he running his office? He is in here purely for the fun of interjecting in the parliament.

The Hon. M.J. ATKINSON: Point of order, Mr Speaker: all members are always in the chamber by convention, and I am the minister in charge of this bill for the government.

Members interjecting:

The SPEAKER: Order! Members will take their seats, please. I think that would be better made as a personal explanation rather than a point of order.

Debate adjourned.

DISABILITY SERVICES

Mrs REDMOND (Heysen): I move:

> That this house condemns the Rann Labor government for slashing the funding to 11 organisations that provide advocacy and information services, from $1.3 million to $550 000 in the 2007-08 budget, which will result in an increase in persons already struggling with disabilities being left without access to independent advocacy or information to assist them.

The minister, I am pleased to see, is in the chamber—as are all members, as we heard in the statement by the Attorney-General. I am very pleased about that because other members who have been in here all morning may not be aware that our speakers in the offices are not working, so unless you are in here you are not going to be hearing this debate. So, I am pleased that the minister is here to hear the comments that I am about to make, and no doubt he is well aware of my views on what he has done in the information and advocacy sector. What he did was literally slash, without notice, the money payable to a whole range of organisations, and they are important organisations, a whole range of them. Let me just tell the house who they are: the Disability Information Resource Centre, the Brain Injury Network of South Australia, Family Advocacy, the Arthritis Foundation, the Down's Syndrome Society of SA, the Muscular Dystrophy Association, Anglican Community Care, the Physiological

and Neurological Council of SA, Deaf SA, and the Paraplegic and Quadriplegic Association of SA (which is now known as ParaQuad).

That is the list of the people that he has ripped this money from in order to put it into his department. That is what the consistent message of this government department is, that they are going to take that money away from organisations, which the minister has on occasion in this place referred to as 'parent groups'. I concede that most of these organisations did originate as parent groups, because parents who had a child born to them with a particular problem did not have access to real information on how they might best deal with the problems that faced them as they tried to raise that child, because mostly they now raise them in their own home, and without any access to information. Obviously, parents in the same situation did get together and over a period of years formed organisations.

Those organisations became increasingly expert in the areas with which they were dealing, and they then managed to run their organisations, using volunteers very largely. They were thus very efficient in the way they managed their money, and in using volunteers they managed to build information and resources, often gaining information from around the world, and certainly from other similar organisations in other states. They became absolute experts in the particular areas that they were having to deal with and in understanding the practical problems that they were having to deal with in raising their children.

Not all of these things relate to babies and children. Some of them like the Brain Injury Network often deal with what is called acquired brain injury, and that largely occurs in road accidents, where people have significant trauma, in industrial accidents, and so on. Closed head injury generally will lead to significant areas of deficit in ability to function, and BINSA (the Brain Injury Network of South Australia) is one of these organisations that has great expertise in what are the problems. A lot of the problems are to do with how you even identify what has happened and how best to get some help.

So what did the government do? Without notice they took away more than half of the funding relating to the education, information and advocacy services of these organisations. In fact, the minister has been bleating a lot lately about how they are putting $45 million into the disability sector, but the reality of it is that over $35 million of that is actually just going to his department. Yesterday he was on the radio talking about all the money he is putting into autism, but what is happening is that almost half of the million dollars is actually going into the department. The problem occurs when he takes this money away from these organisations. Some of those organisations that I named will actually collapse, because that was all the money that they had. When you have the situation where they collapse you lose all that expertise than often has taken 50 and more years to gain.

All these people who have gathered information over a long period of years, they leave. We lose the benefit of them, we lose their knowledge, and we lose the volunteers, because this government is intent on making it that we have public servants. As the member for Kavel mentioned in his address on the previous topic, this government has somehow accidentally employed an extra 9 000 or 10 000 public servants over and above what they budgeted for as an increase. That is just extraordinary. It is extraordinary to think that any government could say that we are going to replace this wonderful expertise that we have in this volunteer sector, in all these little organisations, and put it to public servants, who have no capacity for knowing the detail.

I am not trying to denigrate public servants, because they do the best they can. But no public servant can be expected to have the degree of knowledge and the depth of understanding that is involved in dealing with the practical day-to-day issues confronted by people with all the various disabilities that come under this heading. Furthermore, not only do they not have that expertise but it has created a situation where, in terms of advocacy services, they are being required to advocate for things within their own department. That is just a nonsense. The whole point of an advocacy service is that it needs to be independent: it needs to be able to independently and fearlessly argue with the government the case for those in need in the disability sector.

This government has failed miserably in its attitude to the disability sector, and I can guarantee that there is an increasing level of disenchantment. In fact, I will refer to some of the information that has come through to me from various sources since this announcement was made. A meeting about these funding cuts was held at an organisation, which was attended by representatives from all these different organisations. Immediately upon the announcement being made public, they got together and had a meeting early in August. They said, 'This notification has only been received in the last two weeks and, like others, was received by mail, with no consultation.'

There are a few things that I would like to say about consultation, because this government uses the word 'consultation' a lot of the time in a whole range of areas—whether it is prescription of water resources or any range of activities within the disability sector, and all sorts of things: it commonly says, 'We've consulted.' However, as one will find if one attends the public meetings, the reality is that 'consultation' does not have the meaning that the ordinary member of the public might accept as the meaning of 'consultation'. What it means is that some bureaucrats have decided that they will hold a public meeting and they will tell the members of the public who are interested enough to come along what it is they will impose on them.

There is no sense of consultation in this government. I know, from the feedback that I receive in the disability sector, that this government simply goes out and says, 'This is what we are going to do.' That is the very first note from this organisation: there was no consultation, just two weeks' notice. So, in this case, the government did not even make the attempt to at least discuss beforehand what it was going to do.

Eight out of the 10 original organisations were given three months' notice and the remaining two were given 12 months' notice—and one of those was the Physical and Neurological Council of South Australia, and the other was a small advocacy group operating out of Mount Gambier. The 11th organisation also received 12 months' notice. Indeed, under the funding service agreements of most organisations, the department was required to give three months' notice, which it did, and to consult prior to funding being withdrawn, which it did not do. So, most of the organisations then tried to meet with David Caudrey, the head of Disability SA, and Sue Vardon, the head of the minister's entire department, and they were simply informed that the decision was final and funding would not be reinstated. So much for consultation!

This government has treated the disability sector absolutely appallingly. It has wiped out years and years of hard work by genuine, interested volunteers in favour of a huge bureaucracy. Indeed, the notes of this meeting (and I will not

put names to it, because I do not want to prejudice their situation) state: 'The government has treated the disability sector with contempt,' and their concern is, 'This could be a sign of things to come, i.e., the thin end of the wedge, and further funding could be lost if the government get away with this without any response from the sector.'

The Physical and Neurological Council of South Australia pointed out that one member in six of the population will be affected by a physical or neurological condition, yet these are the people from whom we are taking away money. What is more, it turns out that the minister (and I have some information here) has then sent people to find out, 'Well, what did you do and how did you do it?' That was just an extraordinary thing. Having cut the money away from these organisations, the minister then wants to say to them, 'Can you tell us what it is that you did and how you did it, so that we can now provide the services?'

The government has no real sense of direction: it has no real intention to help the disability sector. It pretended that it did. Coming into the 2006 election it became quite a hot issue and, at the end of the day, it managed to persuade the disability sector that it was going to treat it well. However, in fact, for the sorts of reasons that the member for Mitchell left the Labor Party and became an Independent, this government has consistently failed in its duty and its normal responsibility to the members of the disability sector, and it has failed the people who normally vote Labor. It is surprising to me how many people I now come across who are so disheartened by the way that this government has treated the disability sector, with such contempt, that they are now going to vote against the Labor Party at the next election.

There is no doubt that the government can get away with it for the time being, and I have no doubt that in the year 2009 it will suddenly decide that it can afford to put some money back into the disability sector. However, by then it will be too late, because it is destroying the situation not just in a monetary way but also all those years and years of people having acquired information and having become experts in their field. When you take away that money, when people have nowhere to turn for independent advocacy or for accurate, concise and knowing information about the particular problem they have, it will be too late. The expertise will be gone, and the injection of a bit of money in 2009 will not be enough to save the disability sector.

I am not the only one who is appalled at what this government has failed to do for people in the disability sector. The minister and I, I know, are at one about wanting to help it, but this attitude that everything is better done by a central bureaucracy is simply not correct. The minister made great play, in about July of this year, of all the extra money he was going to put into the disability sector, but the reality is that it was a reannouncement—almost exactly the same terms—of what he had announced in 2004: the announcement that he was going to clear disability equipment waiting lists. He had announced it 2½ or three years earlier, in November 2004, and it had not been done. So, then he reannounced it as though he was now putting money into the sector that was new money, but the reality was that it had not been done. That is typical of this government, not only in the disability sector but across a whole range of things.

Let me say this: the government will get away with it for some time but, gradually, various sectors and some of the public will start to wake up to what it is doing. Some things are unforgivable and, in my mind, the removal of more than 50 per cent of funding without notice, without consultation, from these organisations—in some cases absolutely decimating them and in some cases putting them out of business altogether—is just appalling. It will never be forgiven by not only me but also all the people in the disability sector. They were a big enough force in the last election to make the government sit up and take notice. We know it is difficult for people in the disability sector to make people take notice because they are so busy trying to get through day-to-day situations. They cannot do any more than try to contact people like me and, hopefully, members of the backbench on the other side in order to put pressure on this government to recognise its responsibility to the most vulnerable people in our community and to get on board with the NGOs, instead of doing everything it can to destroy them.

The Hon. J.W. WEATHERILL (Minister for Disability): I indicate the government's position is to oppose this motion. I want to explain a number of points about where we are taking the reform process in disability services. I will start with the fundamental point at issue, which is the implication that we are cutting funding from disability services. Nothing could be further from the truth. Every cent of funding that has been redirected from some of the advocacy and information services goes into disability services. The reason that we have taken that approach is because there are extraordinary demands in relation to disability services in this state—demands which we freely acknowledge far exceed the resources we are providing. We should look at the size of the effort this government has been putting in.

When the Liberals were last in government, they were spending $118 million per annum on disability services. Presently, the government is spending $201.2 million on disability services—a 75 per cent increase on disability services during the course of this government. In addition, whenever we approach the end of a financial year and there is some prospect of a surplus, I have approached the Treasurer and, on every occasion I have approached him, he has found additional resources to apply to the disability sector, so over that time there has been $46.6 million of additional resources. On top of this increase from $118 million to $201.2 million recurrent, an additional $46.6 million in one-off payments has been put into the sector. They are our credentials in government.

I will make a prediction. It is only because the member for Frome was the leader of the opposition that we saw quite an impressive package put up at the last state election when he sought to win government. I will make a prediction. I do not think we will hear the Liberal Party on disability services at the next state election. The proof of the pudding is that when members opposite were in government they were confronted with this massive burgeoning growth in disability services. A study undertaken in 1997 and a report published in 2001 indicated that across the nation there was an enormous hole in terms of disability services funding—something like $300 million across the nation. Our share would have been in the order of $27 million in unmet need. When the opposition was in government what did they do when confronted with that material?

Mrs Redmond interjecting:

The Hon. J.W. WEATHERILL: No; this is 2001, bumper year, big year. It was financially viable. You were telling us that you had solved that problem. What did members opposite do when they were confronted with that report? They participated in a national decision to bury it and not publish it. That is what happened in 2001.

Mrs Redmond: I was not here in 2001.

The Hon. J.W. WEATHERILL: But the proof of the pudding is that when you are in government you can do something about these things. What are the decisions that you take when you have control of the levers of power? We are content to be judged by a 75 per cent increase in disability services funding and a massive increase—

Mrs Redmond interjecting:

The Hon. J.W. WEATHERILL: Well, that is nonsense, as well; that is actually not true, either. The other contention is that this money has been given to the bureaucracy and somehow wasted, as opposed to its being provided to the non-government sector and applied to services. There are two problems with that argument. First, the disability services delivered by state government agencies are of the highest quality. They are front-line services provided by good public servants working directly with people with disabilities. The second problem with that argument is that it is just simply plain wrong. Some 54 per cent of our state government funding goes to the non-government sector. The contention is completely and utterly false.

In terms of non-government organisations, the only thing in which this government has participated in terms of non-government organisations is to create new ones. We have consistently supported the non-government sector. There is now a new non-government organisation called the Julia Farr Housing Association, which has been formed under this government. Our commitment to the non-government sector has been powerful and it continues. It is nonsense to suggest that a faceless bureaucracy is chewing up resources that would otherwise be directed to the needs of people with disabilities.

I have always said that advocacy and information services have played a valuable role. I have never said that their services are worthless. What I have said is that there are some programs in government that are of higher priority than others. And, frankly, when we are talking about some people who are simply not getting their basic needs met, such as showering, equipment, having respite for their children or supported accommodation, we have to make tough decisions and put every dollar we can find into those areas.

We had a very large injection of funds in the last budget but I wanted to do as much as I possibly could, and we looked within our agency to find other ways in which we could redivert those resources. We looked at advocacy and information services and we believed that some modest cuts there, given that we already were providing—

Mrs Redmond: Modest!

The Hon. J.W. WEATHERILL: A number of these organisations are substantially funded by us and, indeed, by the commonwealth, so these are not the only resources that they have, and they have organisational capacity to continue to play roles within these areas. We believe that there was some capacity for these savings to be redirected in this area. We indeed met with all of the organisations once we announced our intention. Mr Caudrey, of my office, met with each of the organisations to explain the nature of these changes.

I also need to talk about the way in which these changes fit into the broader network of changes that we are seeking to make. We have traditionally seen a patchwork of organisations grow up, often through parent groups. They have been advocated to government and government has provided funding. So we have seen a network of organisations, groups and services that have grown up. This has meant that navigating through those various service groups has been a very complex and difficult task. It was appropriate at this time in the history of the development of our organisations to bring those things together to create a seamless system of service delivery, and that is the ambition of Disability SA. This is what the sector has been asking for. It has repeatedly said to us, 'Don't require us to tell our story over and over. Don't tell us we are in the wrong door. Don't require us to carry out a jump on every queue that we can find in town in the hope of one day getting to the front of that queue.' So we have attempted to make that as easy as possible for the people with disabilities, and their families, and put them at the centre of our service system. That is our ambition.

We already invest substantially in information services—about $1 million per annum through Disability SA. That remains. So that network will continue, and we will work with the organisations that we have redirected some funding from for information and advocacy services to ensure that we are better integrated into what they can offer. I acknowledge that there is some important knowledge that has grown up over the years in those organisations, and we want to capture and protect as much of that valuable information as we possibly can.

I also want to give one piece of evidence about the way in which our new approach is working and the announcement the other day in relation to Autism SA, and I think the member for Morialta might touch on the success of that announcement, and that puts the lie to the remarks made by the member opposite.

I conclude by making the point that we are presently locked in negotiations with the commonwealth for the new commonwealth-state disability agreement, and I understand the member for Morialta will address that question as well.

The Hon. R.B. SUCH (Fisher): I want to make a brief contribution, given the member for Morialta is passionate and eager to speak. I guess the first point to make is similar to the point to be made about spending on health—a government could spend all its money on disability services and support for parents and others who are looking after people with disabilities, and you would not have enough money. The requests and the demands for expenditure are endless. I must say that, in my dealings with the minister (Hon. J Weatherill), he and his department have been very supportive of people for whom I have argued a case, so I put that on the record. I do not want to get into the partisan debate about condemning governments, or whatever, but I like to speak as I find it.

One of the issues that has concerned me for a long time is the question of responsibility of parents. I feel very sorry for anyone who has a child with a disability, or maybe an adult with a disability, and many parents suffer greatly as a result of that because of their commitment. Members would know of former member Heini Becker, and this is no secret so I am not telling anything out of school. He and his wife put in a tremendous commitment to one of their children, and I pay tribute to people such as that who put in tremendous service in caring for someone with a disability. On the other hand, I question the role and responsibility of some of the other parents and what their contribution is, and I find it strange that in the non-government sector, and I guess in the government sector, there are a lot of people with disabilities who, in my view (and it might seem a bit harsh), may have been dumped there by people who should and could take more responsibility for a child; and, subsequently, as an adult.

I think, in some ways, the system has been a bit soft on some parents—not all—who have been keen to put their responsibility onto caring organisations and the government and say, 'My child,' or adult, 'has a disability but I am walking away from it.' We know years ago people with conditions like autism used to be put into places such as Minda, and nowadays we have a more enlightened approach than simply putting someone into a care facility. I know of cases where millionaires are provided with a free taxi service for their child to attend a government institution. People say they pay their tax, but I think we ought to be looking at some means testing on some of these services. If someone is a millionaire, why should their child be transported free of charge? If there is money, it should be going to those with the greatest need. I do not believe that is the case at the moment.

We should not approach the general issue of people with disabilities simply on the basis of pity and emotion because, at the end of the day, that does little to help anyone. Whilst there seem to be people and organisations that are well-meaning, I think the expenditure and the assessment of this needs to be rigorous. That is the point that the minister just made.

Allen Consulting has been engaged by the federal government to look at the provision of infrastructure for people with disabilities, in particular, accessing public transport. One could argue that, providing lower step buses, and so on, is a good move, not just for people with significant disabilities but for older people and people with prams, and so on. I think it makes a lot of sense. Sometimes, the desire to assist those with a disability gets overtaken, and in many of our buses we see a provision for two wheelchairs. I have checked this out. I have spoken to bus drivers, and some of them said that they have never had anyone in a wheelchair in the whole time they have been driving buses, and that is many years. So, rather than the widespread approach crying out for assistance for people with disabilities, in many cases, I think it could be better targeted.

Coming back to the commissioning of Allen Consulting to look at bus shelters, what will happen is that councils will have to spend millions of dollars to make every bus shelter disability-friendly. That sounds fine but, first of all, councils do not have the money to do it and, secondly, many of them are saying, 'Well, look, if we are forced to do that, we'll just have a pole with a number on it. We won't provide a facility which is disability-friendly.' Part of the dilemma is that there is no way that someone in a wheelchair, for example, can get to the bus shelter. The cost to upgrade all the footpaths and similar facilities to reach bus shelters, tram stops, and so on, would be astronomical. So, we have a well-meaning attempt to say that bus stops should be disability-friendly, but I say the best of British in trying to get there. That is just an example of what I see as a not well thought-out strategy.

I know it is easy to say but over time we should encourage and assist people with certain types of physical disability to live on designated bus routes; for example, on flatter areas so that they can more readily access the buses which are being designed to accommodate them. In South Australia, we have a very generous scheme for providing Access Cab vouchers, and I support that. I understand—and I am not sure whether it has been corrected in recent times—that certain people who are legally blind are denied access to that scheme. I have had complaints in the past from legally blind people who are not entitled to Access Cab vouchers.

We all have great pity and concern, and we understand why parents, in particular, and other carers, are so passionate about trying to improve the situation for people with disabilities. It is good to have that compassion; we need it and we should have it, but it has to be part of a rational, sensible, coordinated approach which actually delivers the best outcomes for people with disabilities and is not simply motivated by emotion and good intentions. I will come back to the point. Any government—Liberal, Labor, or whatever—can spend all its budget on people with disabilities, but it still would not be enough; the same thing applies in health, because the expectations are rising all the time.

We see the demands in the education system increasingly, where parents are not prepared to accept that their child should go to a special school. For example, they want their child to be placed in a mainstream school. That often causes significant problems for other children in the class and in the school, and often it is not the best place for that particular child. We have schools that are specially designed, specially equipped and have specially trained staff to deal with children who have certain types of disabilities, but we find parents saying, 'No, I want my child to be in the mainstream; I want my child to be in the same class as everyone else.' It sounds good, and I can understand the feeling, but, if we are not careful, we will end up with a situation similar to what has happened in the United States, where people are in oxygen tents in classrooms. To my mind, that is absolutely ridiculous. We seem to be heading down that path, because the system says, 'Whatever you want, we will seek to deliver.'

Parents have bragged to me, 'We've got rid of a teacher, we got rid of the principal, because they didn't do what we wanted in terms of access to a classroom for my child in their wheelchair.' So, we have to be careful that, in balancing this whole area, we do not become obsessional and put demands on the system which are not necessarily in the best interests of the child or the adult with a disability or in the best interests of the wider community.

It is a very sensitive area, and I do not want people to misunderstand what I am saying. I come back to the point that, over time, many people have put their children into institutions and have forgotten about them, when they themselves could have a greater ongoing role. I could tell some pretty horrendous stories of people being literally starved to death in some of these places because that has been the wish of the parent. I can elaborate on that some time in the future.

Ms SIMMONS (Morialta): The member for Fisher is quite right: I am very passionate about this particular subject. I feel that I have the credentials and am well qualified to speak on this motion, having worked in the disability sector for many years as CEO of Blind Welfare, Cystic Fibrosis and then the Autism Association, which has clients with some of the most challenging behaviours. The member for Heysen talked about an announcement made on the radio earlier in the week regarding the additional money being paid to the Autism Association. The whole point of that radio interview, as the CEO Jon Martin pointed out, was that the minister and his department sat down with the Autism Association to actually decide how that money was to be spent so that as many clients as possible could be reached. The fact that the Autism Association has never provided those services in rural and regional areas means that it was not in the best position to be able to do that. Therefore, that money needed to be given to somebody else to provide those services and it just showed how well the minister had listened to the issues. It also showed how impressed the Autism Association was that

the additional services it wanted to provide were going to be able to be provided and that the services it was not able to provide were going to be provided by similar experts, and I think is an excellent example of how this government listens and reacts to what the non-government organisations have asked us to do.

I was very privileged to sit on several state and national committees and councils to discuss issues of primary importance in the disability area prior to coming into this place and, because of this, I am still continually lobbied by disability organisations. I know that the decision made in the recent state budget to cut funding to the eight non-government agencies for their advocacy and information programs was a very difficult one to make. However, I want to emphasise that those members of the disability community who have lobbied me in the past 18 months have said that the largest issues by far for them have been the need and a waiting list for equipment, particularly for those with physical disabilities and the need to address the increasing need for supported accommodation. In fact, I sat on a national committee which reported to the federal minister for disability on exactly this subject without anything ever ensuing.

I think that the member for Heysen was quite misleading in her press release of 13 June this year when she said that families who are caring for a loved one with a disability will now have no place to go for much-needed support. This is blatantly not true when Disability SA spends more than $1 million every year on the dissemination of disability information. It is a much more efficient system to have a one-stop shop which is able to provide a whole host of information on disability services. As the minister has already pointed out this morning, clients often have complex needs and more than one disability. I use the example of those clients who perhaps have both Down's syndrome and autism.

Rather than families having to trail from organisation to organisation cobbling together the information they might need, Disability SA will be able to provide a holistic approach to information services. Families are traumatised enough by having to tell their story once. They get increasingly more dejected and beside themselves with worry if they have to keep going from service to service to tell their story over and over again. It is not good for them, for their physical or mental health, and they might not end up with the best service.

The savings from this budget cut have been diverted directly to provide an additional $5.7 million in one-off funding to cut the waiting lists for equipment for children and adults with disabilities. I can tell the member for Heysen that Novita (formerly the Crippled Children's Association) is delighted to have its primary concern met. Novita, in particular, lobbied me to ensure that this unmet need was the government's highest priority in this budget, and we listened and we have done that. I think it is a brave and sensible decision of the minister to do so. This government listens and responds to community concerns and it has been part of the State Strategic Plan for some time to double the number of supported accommodation places by 2014. Parents of adults with a disability are at the end of their tether and this issue is their highest and most pressing priority. We have listened and we have heard.

A Senate inquiry, to which I gave evidence, laid out on the table in great detail the level of unmet need. This issue affects all jurisdictions across all areas of disability. It is an Australia-wide problem, yet the proportion of the disability budget coming from the commonwealth continues to shrink. The commonwealth is the one with the $10 billion surplus, as the federal Treasurer is happy to continually remind us. In contrast, South Australia has massively increased spending in this area up from $118 million in 2001-02 when I was working in the sector—and I was CEO in the sector for all of the time under the opposition's government, and it was not an easy job—to currently $201.2 million this year. Yet, we cannot keep up with the growing demand without a clear commitment from the commonwealth.

I think it is an appalling state of affairs that we still do not have a final sign-off on the fourth Commonwealth State Territory Disability Agreement. It is now nearly six months overdue. The commonwealth is stonewalling. There is no other way to look at it. The states have told the federal minister that they will need an additional $3.4 billion over the next five years if we do not want to go backwards in real terms. We need a more generous indexation rate and extra money to meet the growth in the number of people with disabilities. The states have argued that the next agreement should grow annually by an average of 5 per cent each year. This 5 per cent is made up of about 3.1 per cent in maintenance, 2 per cent in growth and we will need additional money on top of that if we are going to cut into the backlog that already exists, and it still does not account for any growth in population in this sector at all.

Of course, there will be growth. We have more people with disabilities than we have ever had before with improvements in the health of our nation. We are keeping more people with disabilities alive and we need to react to that if we are just going to keep up. Personally, I do not understand what is so hard about this concept, but no, the commonwealth has tootled along on its own path, determining its own priority groups and directing funds outside of the CSTDA. We believe there is demand across the whole sector that the Disability Assistance Package that the commonwealth has introduced just will not address. The federal government has deliberately not taken up the opportunity to put disability funding for all people with disabilities on a more substantial basis for the future. In real terms, the funding has gone down from 20 per cent to 16 per cent.

In fact, about half of the new measures announced do not relate at all to the sorts of services funded under the CSTDA. They are clearly—and I repeat, clearly—social security payments. They always say that the devil is in the detail. The new money for supported accommodation and respite is so tightly targeted that here in South Australia we calculate that only 10 per cent of the people currently on our waiting list for accommodation support would qualify. That leaves the remaining 90 per cent of people without any hope that the new CSTDA will deliver new funding to reduce the current lack of supported accommodation and services. For instance, the package of measures is targeted only at people over the age of 40 with a disability who have carers over 65. This means that significant population groups will miss out despite having high levels of unmet need. These include younger people under 40 living with their family and all people living alone or in supported residential facilities.

For example, parents who are 55 with a 25 year old son or daughter will not be eligible for the new commonwealth scheme for another 15 years until their son or daughter reaches 40. This is of great concern given the nature of South Australia's current demand pressures. The South Australian government has been investing heavily in disability services, whatever the member for Heysen says, and over the past five years, the life of the current CSTDA, South Australia

increased its funding from $180 million to $201.2 million. Over the same period commonwealth funding to South Australia increased by only $11 million.

Time expired.

Mr GOLDSWORTHY (Kavel): I move:

That the debate be adjourned.

Motion negatived.

The DEPUTY SPEAKER: The question is that the motion moved by the member for Heysen be agreed to.

Motion negatived.

SMALL BUSINESS AND UNIONS

Mr PISONI (Unley): I move:

That this house expresses its concern that—

(a) a potential federal Labor cabinet would be totally dominated by former union officials and unrepresentative of the broader Australian community; and

(b) such a cabinet having no members with a small business background cannot adequately represent the interests of South Australia where small and medium businesses are major employers.

I have moved this motion to draw attention to the very real danger posed to small businesses and their employees in South Australia—and, of course, around the nation—by a possible federal Labor government which would consist almost exclusively of ex-union officials and Labor staffers. South Australia relies heavily on small and medium business to create wealth, pay tax—far too much tax under this Rann government, I might add—and most importantly to employ. Australia's economy continues to boom, and unemployment nationally is at an unheard low of 4.3 per cent, because Howard coalition reforms in taxation and in the workplace have created a framework within which business and employers can work towards the creation of wealth and employment for Australian workers.

The Australian government has listened to the broader interests involved in the Australian workplace. It is not captive to the minority interests represented by the unions. Listening to union advertising, one could be forgiven for thinking that the ACTU is interested in protecting ordinary Australian workers. The sad reality is that the jobs and conditions they seek to protect are their own and, through their control of the ALP, all Australian workers and businesses will be forced to do things the union minority way if Kevin Rudd is elected. Kevin Rudd claims to be an economic conservative and content with the performance of the Australian economy, yet leads a party which has opposed every single coalition reform that has made this success possible.

The coalition has paid off $96 billion of Labor government debt left by the Keating government, secured budget surpluses, and set up a futures fund to deal with unfunded government liabilities. And, of course, Rudd is out there spending it all. Kevin Rudd and his union mates would love to have the opportunity to blow the lot. Julia Gillard, a potential deputy prime minister—and slightly to the left of Leon Trotsky on these issues—made it clear very early on that business interests and employers should refrain from expressing concerns about Labor's industrial relations policy lest they suffer injuries. Let us hope that she was not suggesting the use of an ice pick!

This disdain for the private sector and hypersensitivity to informed debate on important economic and workplace issues does not bode well for South Australia's small to medium enterprises or for their thousands of employees under a potential federal Labor government. There is nothing ambiguous in Labor's plan. Under a Rudd government, there would be an IR balance heavily weighted toward trade union power; re-regulation of the workforce; an increase in non-financial reporting for businesses; and with the introduction of fair work Australia, the prospect of intervention by union-based officials into the day-to-day running of small to medium businesses everywhere. Perhaps they could rename this new department the Stasi, and be honest about the true draconian impact it will have on small business. Concepts such as these are formulated by Labor in consultation with the unions and with no input from business.

Small businesses and their employees need to set their own wages and conditions in cooperation for their mutual benefit. Our small business sectors are the innovators, the entrepreneurs and the go-getters, who lead the way to prosperity in our community. They need flexibility and encouragement, not the rhetoric of class warfare and union intransigence imposed upon them to hold them back. Few small business owners are comfortable when entering into collective agreements with unions. One small business operator expressed the following:

> Having the union in your business is like having a grizzly bear in your lounge room. You may be able to feed it and keep it happy temporarily, but at the end of the day you still have a bear in your lounge room.

Kevin Rudd has a shadow cabinet room filled almost exclusively with grizzly bears, and there is no way that he will be able to stop feeding them. Expelling from the ALP the odd union heavy, such as Dean Mighell of the Electrical Trades Union or Joe McDonald of the CFMEU is designed to try to reassure business and the public at large that the grizzlies are on a leash.

However, the money from these unions still flows to the ALP's election campaign propaganda and, if Labor is elected, will ensure their continued control of IR policy. Little favours also tend to flow through to union backers from Labor cabinets, such as quietly removing the regulatory need for public servants to renew permission every 12 months for union fees to be deducted from their pay, as the Rann cabinet did in South Australia as a matter of priority. No wonder the PSA was prepared to spend $250 000 to assist the Rann government to retain office at the last state election. This government is doing its recruitment for them. Make no mistake, this federal election is all about the preservation of union power in the political process.

Professor Mark Wooden, of the National Institute of Labour Studies, told *The Australian* that 'unions have shot both themselves and their potential members in the foot by being resistant to sweeping workplace changes'. Professor Wooden said:

> You need to learn how Amway do it—chain-sellers. . . selling the benefits of unionism. Get them, train them, indoctrinate them—that is the only way unions will survive.

We know how unions work for the Labor Party. At first, the behaviour of unions puzzled me a bit, but then I had an epiphany and everything they did made sense from then on. First, let us not forget that unions are businesses. Unions go after market share in more or less the same manner as any other businesses. Sometimes they try to expand the market and sometimes they are content merely to steal business from their competitors, that is, from other unions. Of course, when that happens, small businesses are always the victims. Unions get their best results when they influence legislation in their

favour. They have marketing plans, growth projections, a sales force, account reps, customer service and all the other accoutrements of the corporate world. First, the ultimate goal of unions is to maximise their income and influence in preselections on the floor of the Labor Party conference and not to maximise the rights of workers.

Secondly, unlike traditional businesses, the management of unions run their businesses for their own benefit rather than the benefit of members. You may be under the mistaken impression that the union members are making an investment through paying union fees for themselves, but that is incorrect. The rank and file union members are customers; the investors are the union officials from the shop steward upwards. In this respect unions are businesses in the Amway model—basically pyramid schemes. Even in pyramid schemes, the small players have the belief that they truly are stakeholders and that is what shop stewards truly believe. The shop stewards and branch secretaries who thrive in unions are not the idealistic types who believe in equality and justice for all—rather it is the selfish and/or self-important who thrive, the rabblerousers who love to feel like big shots and who love to think that they wield some degree of power in Labor politics.

Thirdly, union profits go to the investors—and remember the investors are not the members, who are the customers—the same as in any business; the investors benefit from the profits, but the method of distribution of profit is markedly different. In unions profits take the form of preselection for safe Labor seats. The pyramid of the Amway model increases the profit for those at the top of the pyramid by delivering a block of votes at preselection. At this election, the new comrades moving from the top of the pyramid into safe Labor seats include: Greg Combet, another ACTU president; Doug Cameron, AMWU; Bill Shorten, AWU; and Richard Marles from the Transport Workers Union. The Transport Workers Union is a real master at doing deals. I refer the house to an article by Brad Norington in *The Australian* of 24 September this year in which he says:

> One of Australia's most powerful unions and biggest donors to the Labor Party is battling allegations it has extracted millions of dollars from employers that have been hidden in a special fund and then used without the knowledge of its members. According to these claims, the Transport Workers Union has done 'side deals' with many employers of its members in which company money has been paid to a union 'training fund'—possibly at a cost of discounting workers' wages.

It goes on to say that the deal—personally signed off by the TWU state secretary, Tony Sheldon—was made at the same time that employees stood to suffer a 30 per cent pay cut. There you go: there is the building of the union pyramid at the base in order to secure those at the top safe seats in parliament. Those cashing in profits from South Australia include: Don Farrell, head of the SDA; Mark Butler, secretary of the Liquor, Hospitality and Miscellaneous Union; and candidates for Wakefield and Kingston, both from the SDA pyramid. Let us stop to take a look at the actual—and for the SA business community frightening—composition of the would-be Rudd cabinet. There is star recruit, Peter Garrett, one of the new Labor shadows without a union background. He was not even registered to vote until he wanted to vote for himself. He will have to rewrite the lyrics of his well-known tune *US Forces* because, under a federal Labor government, it would be 'Union Forces' that give the nod on policy. However, the second line will need no correction: it will definitely be 'a setback for our country'.

Let us go through the rest of Labor's shadow cabinet: Attorney-General, Joe Ludwig, former AWU official; minister for homeland security, Arch Bevis, former Queensland teachers union; minister for trade, Simon Crean, former ACTU president; minister for transport and tourism, Martin Ferguson, another former ACTU president; minister for finance, Lindsay Tanner, former state secretary of the Federated Clerks Union; minister for immigration, Tony Burke, former SDA member—a pattern is occurring here; minister for resources, Chris Evans, former official of the Miscellaneous Workers Union; and minister for sport, Kate Lundy, former official of the CFMEU. What an amazing broad selection of the community! The fact is that unions are selling a service that almost no-one in the productive private sector wants to buy.

When workers have a choice, they generally ignore them. The ACTU is fighting for a decreasing patch of ground. The danger is that, with their control of the ALP, they will be in a position to impose their unrepresentative, unrealistic and self-serving policies on businesses and workers alike. Union heavyweights are the cuckoo birds of the Labor movement. Those in the Labor nest who are not union hacks will quickly find themselves tipped out of the nest to make room for more union cuckoos. Ask Linda Kirk and Kelly Hoare what happens at preselection time when a big union cuckoo like Don Farrell or Greg Combet wants your spot in the nest: 'Yes, out you go, and no excuse will do.' They can also attest to the fact being a woman will not save you.

Union membership in the wider community is down to about 15 per cent, yet former trade unionists will represent 80 per cent of South Australian Labor senators with the appointment of Mr Farrell. This is a very real danger for South Australian businesses and workers. Not only do we have a state cabinet that is a business experience free zone, but we would also have a federal cabinet crammed full of union heavyweights picked from the top of the union Amway pyramid. Time and again, as shadow small business minister, in my dealings with business people from small to large organisations and lobby groups, they express their frustration at dealing with a state government that does not understand how small businesses work.

Every business owner in South Australia knows that you do not invest heavily in a project unless you have faith in its return. The union movement has gone into debt to fund Labor's bid for a federal election victory, spending millions of members' money on a misleading advertising campaign. John Camillo, for example, Secretary of the AMWU, whilst on his mobile phone enjoying a cheeseburger and fries at McDonald's on Magill Road on Saturday 8 August at about 12.40 p.m., was recently overheard to say that this debt would have to be clawed back by increasing union fees—wait for it—after the election. The union bosses would not be spending their members' money so freely if a big pay-off was not expected. Their pay-off, and their demand, will be the control of the Australian workplace, which will affect every small business in the state.

Mike Rann is Rudd's campaign manager, and he wants a federal government that will create an industrial relations bureaucracy controlled by trade unions, reintroduce unfair dismissal laws and, effectively, bury small business in the process of red tape and vexatious claims. Gone will be the practical stability of sound economic finances, which has put Australia in such an enviable fiscal position globally. However, the most grievous loss to South Australian businesses and workers will be the loss of flexibility, which

has generated strong growth and built confidence in small and medium businesses in this state to employ staff.

Kevin Rudd has based his whole campaign on the pretence that he is just like John Howard on leadership and the economy. However, the difficulty for us all is that a counterfeit initially looks and feels so good that one rarely suspects that something is wrong. Only when the counterfeit is examined and compared with the real thing does the counterfeit become apparent, but by then it is often too late.

Ms SIMMONS (Morialta): The current motion can best be seen as a feeble and erroneous attempt by the South Australian Liberal Party to participate in the federal government's desperate scare campaign to retain office. Despite the assertions of the member for Unley in moving the motion that a potential ALP cabinet would have no members with small business background, I wish to inform him that the shadow ministry currently has two members with strong backgrounds in small business: the Hon. Tony Burke MP, shadow minister for immigration, integration and citizenship, and the Hon. Joel Fitzgibbon MP, shadow minister for defence. The leader of the federal opposition, the Hon. Kevin Rudd MP, as is very well known, is married to a very successful businesswoman, Theresa Rein. The member might also have a quick look at the biographies of Senator Glenn Sterle, the Hon. Sharon Grierson MP (the member for Newcastle) or the Hon. Julie Owens MP (the member for Parramatta), to mention just three members of federal caucus who have a strong business background. One might have hoped that the member for Unley would have bothered to find out these readily available facts before wasting the time of the House of Assembly with such a motion.

The assertions contained in the motion about the likely make-up of a federal ALP cabinet are not only inaccurate but are also entirely speculative. Making the same assumption as the member, that the federal ALP will win the next election, it is not known which candidates will win seats and be eligible for appointment to cabinet, it cannot be known who the federal caucus will select for cabinet positions and it cannot be known how ministries will be allocated by the then prime minister (let us hope it is a new one).

Hidden behind this trite motion is the unlikely proposition that representative government somehow requires that legitimate policy only be made by policy makers with direct personal experience of an area of policy. The absurdity of this can be demonstrated easily.

Mr Kenyon interjecting:

Ms SIMMONS: Yes. The current federal Liberal government appears to be proud of its record on the economy, defence and immigration. Australia's economy since 1996 has been managed by the Prime Minister and the Treasurer, both of whom were lawyers rather than business operators, or even economists. Australia's current Minister for Defence is a former GP, rather than a former general or infantry man. The current Minister for Immigration—another lawyer—was born in Sale, Victoria, in 1955 rather than in Athens or Manchester. What the Australian people deserve is the most able ministry that an elected government can field.

What the people need is leadership from ministers who understand their portfolio and have a vision for the future. We need ministers capable of leadership and judgment who can formulate and debate policy and who will consult with the community. What is relevant is a minister's ability to do the job for the people, regardless of whether he or she was formerly a trade union leader, business person, lawyer, GP or farmer. Also, it should be noted that many union officials have backgrounds of organisational leadership as strong as any business person. Trade unions operate commercial activities, employ staff (with all that entails) and manage significant funds.

The Australian Labor Party at both the federal and state levels has a strong understanding of the importance of the business community and a sincere commitment to support business and consult with business leaders. In recent times they have certainly wanted to talk to us more than the other side. The extensive discussions undertaken in formulating the federal industrial relations policy forward with fairness demonstrates that, despite whatever policy differences may arise, the business community will not be excluded from the policy formation process by a federal ALP government.

An honourable member interjecting:

Ms SIMMONS: They want to talk to us. Since the motion raises old stereotypes about the ALP and the Liberal Party, it might be worth examining the statistics. The most recent ABS national statistics released in November 2006 suggest that of the 10.1 million employed persons in the economy 1 904 700 are owner-managers of incorporated or unincorporated enterprises, while 1.786 million employees are members of trade unions. By that measure the Liberal Party's claim to be more representative of the community is dubious, indeed. If elected the new federal ALP government, guided by its platform, will represent the interests of all the people of South Australia. Despite the hackneyed, trite contentions of the Liberal Party's scare campaign (as reflected in this current motion), a new federal ALP government will provide the South Australian and Australian community with new, fresh leadership for the future.

Ms THOMPSON (Reynell): I thank the member for Morialta very sincerely for enlightening some members opposite about the breadth of experience, skills and talents within the Labor Party. She has outlined that case comprehensively. I want to address the motion from a different perspective as someone who has been a union official. I was an official of what was then called the administrative and clerical officers association (now the Public Sector Union) from 1973 to 1982. From 1975 to 1982 I was the first female state secretary of that union and, indeed, one of the few women who held elected office in unions around Australia. It often involved me in activities that were not normally experienced at that level, such as negotiating with some members of the Fraser government over issues such maternity and paternity leave, as well as assisting in breaking down barriers in the commonwealth Public Service that stopped women and men from seeking to undertake all duties.

When I was involved in the union there were many jobs that women were not allowed to do and a few jobs that men were not allowed to do in the Public Service—and that was prescribed. I was involved in the fights against the Fraser government and spent a quite a number of hours on the back of a truck in Victoria Square addressing meetings. At one stage I addressed a meeting of about 11 000 people who were opposed to the activities of the Fraser government in attacking their employment security and conditions.

I learnt many skills during that period. In particular, I learnt the skills of listening and communicating. There were not many people in the Public Service at that time who had participated in industrial action. Informing them why they needed to stand up for themselves and engaging them in that struggle involved a lot of listening and communicating skills.

I find these skills extremely useful today in dealing with my constituents. The skills I learnt as a union official helped me listen to what was being intended as well as what was being said, and to hear the emotions and the fear, etc., behind the words. It has often helped me to assist people to see that there is more than one way of dealing with their problem. People often come to me thinking that this is the only way their difficulty can be answered. The skills I learnt as a union official, and the knowledge I gained of the way big organisations work, has assisted me to show them that there are often many ways of dealing with the problems that confront them.

I learnt how to advocate on behalf of people who were disadvantaged in a situation. This has helped me support and advocate for my constituents in many different ways. I learnt to respect my constituents, whether or not they agreed with me or I agreed with them on a particular issue. You learnt very quickly when you were an elected union official that you have to listen to what your members have to say, because they are the ones who decide whether or not you will have your job. It is just the same as being a politician. It is a wonderful apprenticeship for being a member of parliament.

I could continue for quite some time, but the next motion is mine so I will wrap up my remarks. Basically, I want to say that the skills that people learn as union officials are extremely valuable and relevant to the skills that people need to be effective members of parliament. Members of parliament should respect their constituents, listen to them, be able to make policy that respects the fact that not every person is impacted the same way by a policy, be able to understand the way big organisations work, and be able to provide leadership in a time of disaster. Who among us does not remember the leadership role undertaken by Bill Shorten and the AWU when miners were trapped underground? The leadership role displayed by Bill Shorten at that time is typical of what many union leaders are asked to display in times of crisis.

These types of skills, together with the many other skills held by Labor aspiring parliamentarians, and existing parliamentarians, as outlined so well by the member for Morialta, will give Australians a team of optimistic, encouraging, supportive, responsive, future-thinking leaders to take Australia forward through this century. They will give us skills that, unfortunately, the Howard government has run out of, and will help Australia adopt a really positive approach to the many issues facing us at the moment.

Mr PISONI (Unley): I think the members for Reynell and Morialta have confirmed what I said in my speech, and confirmed the concerns that I have about a union-dominated, potential Rudd cabinet.

Members interjecting:

Mr PISONI: I point out to members here that the union movement is ruthless; it will do anything and say anything. There are union members in Queensland—former state Labor MPs—who are in gaol for electoral fraud. They will say one thing, push all the right buttons out there in the electorate, but their aim is simply to gain control and placements for their mates in the seats of power within various parliaments in Australia.

I warn the small business community of South Australia that it will be in for a rough time if Kevin Rudd is elected as prime minister in the upcoming election. The member for Reynell has told us that she thinks that a union background is a great experience for a member of parliament. I disagree, and many others out there disagree. The mix of representatives in this place or the Australian federal parliament should be that of a broad church. It should be people from all walks of life, whether from the volunteer community, the business community or the small business community, the public service, the private sector, the local government industry or, of course, those who are on the land.

I urge small businesses out there to be very wary. Do not fall for the line that Mr Rudd is spinning. This is a grab for union power and for the unions to get back into politics and to change legislation that will interfere with your business, the way you run your business and the way you run your life. They have had form on this time and time again, so I warn small business.

Members interjecting:

The SPEAKER: Order!

Mr PISONI: The Labor Party has an enormous debt to the trade union movement, and they will want that repaid with interest.

Motion negatived.

COMMONWEALTH-STATE HOUSING AGREEMENT

Ms THOMPSON (Reynell): I move:

That this house—

(a) condemns the federal government's track record on, and future intentions for, the Commonwealth-State Housing Agreement (CSHA), since it—

(i) has stripped funding from the CSHA with a 36 per cent reduction in real terms for South Australia since 1996, with no acknowledgment that their funding cut has resulted in new supply being stymied;

(ii) will effectively 'tender' out the CSHA in the future as announced by the federal minister Mal Brough on 26 July 2007;

(iii) will stop funding the states and territories for the provision of public housing, thus putting at risk the tenancies of more than 45 000 South Australians; and

(b) calls on the federal government to end the blame game and work with the states and territories on their six-point plan to restore the viability of social housing and at the same time create new affordable housing.

The Commonwealth-State Housing Agreement, henceforward CSHA, is the primary mechanism by which the Australian government—and states and territories—fund and coordinate the provision of direct housing assistance to Australians who, for many different reasons, are not able to do so themselves.

The CSHA covers public housing, community housing and Aboriginal housing. Other areas of activity include home ownership assistance and capital for crisis accommodation. The majority of funding under the CSHA is in the form of capital grants, mainly for the provision of public housing. In South Australia, the $73.74 million provided by the commonwealth was matched with $27.96 million by the state government in the period 2007 to 2008. The recent independent audit of government contributions to housing assistance found that all states and territories provided more in aggregate funding than was required by their CSHA allocations, with South Australia and Western Australia over-matching by the most. This is during a time when the commonwealth contributions are declining rapidly.

Over the past 11 years, the commonwealth contributions have decreased by over 36 per cent. In order to make up the shortfall, state and territories are forced to liquidate housing stock assets, which is a source of significant public criticism and criticism by members opposite who led the way in getting rid of housing. As has previously been mentioned in this

place, many members opposite seem to think that the world started in 2002 and certainly they are not very good at examining the history of what happened during the years of the Brown-Olsen government.

Ms Chapman: What about the Dunstan government?

Ms THOMPSON: Over and over again, they ignore what happened during 1993 to 2002. Members opposite who are interjecting certainly have not looked at the record of the Brown and Olsen governments in getting rid of housing during that period. We criticised it but we understand some of the reasons; however, in relation to the previous Brown-Olsen government there was also the issue of transfer of funds out of the housing area into the health area, which has been commented on by the Auditor-General and others. The CSHA underpins all provision for housing assistance, particularly through community housing organisations and non-government housing organisations.

The current agreement expires in July 2008, and it seems that the future of the CSHA is under significant threat. The commonwealth deferred discussion of the future arrangements for the CSHA at the most recent housing ministers meeting held in Darwin on 4 and 5 July 2007. On 26 July, minister Mal Brough put out a media release which was followed by the initiation of a request for information process. The media release indicates no commitment to the current arrangements and it seeks a tender process for the supply of housing, yet no recognition of the existing position of states in terms of managing the reduction in commonwealth funding over the past years and no recognition of the situation of current tenants.

It was no coincidence that this announcement was made on the same day as federal opposition leader Kevin Rudd's National Housing Summit, which was an exciting meeting of all housing sector stakeholders. It involved developers, builders, financiers, community organisations, government housing authorities, local government and planning authorities. Brough's process supports a project by project distribution of funds rather than one backed up by an holistic framework such as the CSHA. There is significant concern that some areas of the social housing sector will miss out on funding altogether. In addition, existing clients and customers of state government and non-government housing organisations may not be looked after in the new arrangements. There is no guarantee about this, no mention of this, and this will mean that families and individuals will fall through the cracks causing unnecessary hardship and suffering.

State and territory housing ministers have met and come up with a national position proposing that CSHA be replaced with a broader and more integrated set of arrangements. This can be summarised with their six-point plan: to secure the viability of the social housing sector now and into the future; to increase the supply of social housing; to improve housing affordability for private renters; to improve access to affordable home ownership; to increase the supply and distribution of affordable housing for new development and redevelopment projects; and to improve housing opportunities for indigenous people. This plan reinforces the states' and territories' commitment to developing a comprehensive and integrated agreement that builds on 60 years of previous efforts in cooperation, rather than the Australian government's more freestyle project by project, cross your fingers and hope approach. Currently, this approach focus is on new housing supply with no commitment to ensuring the continued operation and viability of a social rental housing system.

We are all aware of the housing stresses that are occurring for younger people today. The fact that, if people go to uni and they end up with a HECS debt, it often makes it difficult for them to then face a mortgage debt as well. It works the other way, too. Some people are discouraged from going to uni because they see that, if they have a HECS debt, they will never get a house, so they just do not even bother going to university. And this is a situation that applies quite widely in my electorate, where very few people go to university. There is the impact of the high cost of housing in many ways in our community. People's choices are governed by whether or not they think they will be able to get a house.

The increasing price of housing in relation to wages means that, for ordinary Australians, very different decisions are having to be made about their whole lifestyle. Families are having young people stay at home almost forever, some tell me, because their youth are unable to get a house. In times when there is greater disparity between the rich and the poor, the need for social housing is becoming more evident and more critical. Whereas housing trusts and commissions of the past, during the Playford era, were able to support low income families into housing, the constraints that have been imposed over the past few years, together with the increasing disparity in wealth in our community, has meant that housing trusts and commissions have had to focus more and more on social housing support for people who are really in a very difficult way.

I find it very hard when people come to my office and tell me about the difficulties they are facing in their lives, and how, if only they could get a Housing Trust house and have some stability in their life, they would be able to better overcome the many other challenges they face through ill health, employment problems, and so on. I know that that is true, but I also know that they in no way qualify under the existing arrangements for social housing. The Howard government has simply failed to take account of how central the right to a home is in the lives of Australians. It has made it more difficult for people to aspire to own their own home, and it has made it increasingly difficult for those in need to be able to access the housing that they need, often to enable them to get their lives in order, sometimes just to have somewhere to sleep that is not a caravan in somebody's backyard, or is not surfing from couch to couch, or from spare room to spare room. I urge the community to take account of the different housing policies of the Rudd team compared with the Howard team as an important consideration when determining their vote in the forthcoming election.

Mr VENNING secured the adjournment of the debate.

[Sitting suspended from 1 to 2 p.m.]

SOLID WASTE LEVY

Petitions signed by 1 335 residents of South Australia requesting the house to urge the government to ensure that all funding raised from the solid waste levy is used in programs designed to meet the SA Strategic Plan target for reduction of waste to landfill were presented by the Hons G.M. Gunn and J.D. Hill.

Petitions received.

QUESTIONS

The SPEAKER: I direct that the written answers to questions, as detailed in the schedule I now table, be distributed and printed in *Hansard*: Nos 79, 80 and 172.

BUSINESS GROWTH PROGRAM

79. **Dr McFETRIDGE:** Why has there been a $243 000 overspend on 'supplies and services' under the Business Growth Program in 2006-07?

The Hon. K.O. FOLEY: The Department of Trade and Economic Development (DTED) has provided the following information:

The increase in supplies and services between the 2006-07 Estimated Result and the 2006-07 Budget is due to increases in projects associated with 'Technology Diffusion' and 'Tools and Techniques'.

'Technology Diffusion' is designed to disperse specialist and more technical programs and services, such as lean application, product development, innovation audits, quick changeover, and business sustainability, predominantly targeted to manufacturing productivity improvement.

'Tools and Techniques' is designed to provide mechanisms to support on-line or mass market promotion, education and awareness of techniques available for industry to improve commercialisation.

This increased expenditure was met through savings in other areas within the program.

80. **Dr McFETRIDGE:** Why was there a $1.5 million overspend on 'grants and subsidies' under the Business Growth Program in 2006-07?

The Hon. K.O. FOLEY: I am advised that the variance between the 2006-07 Estimated Result and the 2006-07 Budget of $1.511 million is due mainly to the Cabinet approval during 2006-07 of the Holden R&D Support program offset by minor savings in other programs.

LAND TAX REVENUE

172. **Dr McFETRIDGE:**

1. What was the total revenue to the State from Land Tax in 2006-07?
2. What is the total value of the accounts issued for Land Tax in 2006-07?
3. Were all accounts issued in 2006-07?
4. How many additional accounts were issued in 2006-07 for properties previously exempt from land tax or below the tax free threshold in the previous year?

The Hon. K.O. FOLEY:

1. As at July 2007, land tax collections receipted (current and arrears) including government ownerships in 2006-07 amounted to $333 million.
2. As at July 2007, the value of land tax billing for the 2006-07 land tax assessment year amounted to $333 million, of which $188 million related to private ownerships and $145 million to government ownerships.
3. No. Due to land ownership changes, taxpayer enquiries, processing of exemptions and instalments, approximately 3 000 accounts had not been issued by the end of 2006-07.
4. Land tax reporting does not track changes in the land tax status of individual taxpayers from one year to the next.

I am advised that the number of taxable ownerships increased by approximately 9 500.

JOINT PARLIAMENTARY SERVICE COMMITTEE

The SPEAKER: I lay upon the table the annual report of the committee 2006-07.

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Science and Information Economy (Hon. P. Caica)—

Playford Centre—
Charter
Performance Targets for Financial year to June 2008

By the Minister for Gambling (Hon. P. Caica)—

Independent Gambling Authority—2004 Amendments Inquiry.

WORKCOVER

The Hon. M.J. WRIGHT (Minister for Industrial Relations): I seek leave to make a ministerial statement.

Leave granted.

The Hon. M.J. WRIGHT: I rise to advise the house that the WorkCover Board, at its meeting this afternoon, will consider the actuarial report for the financial year ending 30 June 2007. The meeting is not expected to conclude until late this afternoon, therefore I am not now in a position to advise the house of the financial results. I am advised that the board will release the annual financial results later today consistent with past practice. While I expect that the results will show that the unfunded liability has increased, I do not expect that it will reach $1 billion as previously speculated by the opposition.

I am advised that, although Employers Mutual has been successful in helping those injured workers entering the scheme over the past 12 months return safely to the workforce, there has not been a similar success rate with those injured workers who have been on the scheme for a longer period, particularly those in excess of 10 years.

I remind the house that, in March this year, the government initiated an independent review into the Workers Rehabilitation and Compensation Scheme to reform the scheme to make it fully funded, fair to workers and affordable for business. The review is expected to report by 30 November, and the government intends to respond swiftly, including any necessary legislation, by July 2008.

VISITORS TO PARLIAMENT

The SPEAKER: I draw to honourable members' attention the presence in the chamber today of students from Loreto College, who are guests of the member for Bragg, and students from John Pirie Secondary School, who are guests of the member for Frome.

QUESTION TIME

VICTORIA PARK REDEVELOPMENT

Mr HAMILTON-SMITH (Leader of the Opposition): When will the Premier show leadership on the Victoria Park redevelopment by introducing legislation to secure the lease to allow an appropriate development to proceed?

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY (Deputy Premier): The opposition leader's comments I take with great interest because up until now the leader, except in his private discussions with me, has not publicly been prepared to state a position on the Victoria Park grandstand. Privately, he told me—before he was Leader of the Opposition, I might add—that he was all for it because, in all fairness to the leader, he is a rev head. He is a bigger rev head than me, I can tell you.

Mrs Redmond interjecting:

The Hon. K.O. FOLEY: That would not take a lot. He certainly indicated to me privately his views but he has not done so publicly, so I welcome that. I have just said to the media that legislation should not be necessary if the Adelaide City Council does what it is elected to do.

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: The Adelaide City Council supports the project.

Mr Williams interjecting:

The Hon. K.O. FOLEY: Oh yeah! Do you reckon they would have approved it without a little bit of motivation or assistance? The Adelaide City Council has given its support to the project and, in doing so, it rejected our original proposal, which was a scaled down version of its original project, then we modified it to suit all the concerns of the Adelaide City Council. We signed off on everything and we met all of what they required from us in terms of a revised project, which got a big tick from the council officers. We met every obligation that was required. All we need now is the Development Assessment Commission's approval and, of course, the council to sign off on a lease.

Mr Hanna: See what the new council says.

The Hon. K.O. FOLEY: Yes. I have a fair idea what they will say.

Mr Hanna: That's democracy.

The Hon. K.O. FOLEY: Yes, that could well be right.

Members interjecting:

The Hon. K.O. FOLEY: Come on. Who is answering this question?

The SPEAKER: Order!

The Hon. K.O. FOLEY: I have lost my train of thought now. That is right: attack the council; that is an easy thing for me to do. We have acted in good faith. We have expended taxpayers' money and we have had a lot of hours tied up in government officers, council officers and Development Assessment Commission people and all sorts of people. What has the Adelaide City Council done? Its members are sitting on their hands. They are refusing to do what they are elected to do and they are refusing to act in good faith with the government. What is their excuse? Their excuse is that the—

Mr Koutsantonis interjecting:

The Hon. K.O. FOLEY: Newspoll today? Six months in the leadership and our polls go up and apparently he is doing a good job. But then Matt Abraham would say that, wouldn't he?

Members interjecting:

The Hon. K.O. FOLEY: No, I'm not cocky. I am just stating the obvious. Talk about cocky, the way he struts around as leader. Back to the main game.

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: The council is not doing what it is elected to do; it is not doing what it should be doing. As everyone in this house knows, I am a patient man, but even my patience can be tested. We should not need legislation. The Adelaide City Council should go to work tomorrow and approve it. But, why does it say that it will not do it? Because it is in caretaker mode, or something. What a load of nonsense! What did they approve in the last week or two? How many storeys is that building on the Arturo Taverna site? It is a 30 or 40-storey building.

An honourable member: 32.

The Hon. K.O. FOLEY: It has 32 storeys. The council has approved millions upon millions of dollars of underground electricity cables.

The Hon. P.F. Conlon: They got the caretaker to approve it.

The Hon. K.O. FOLEY: So they got the caretaker to approve it, but they cannot sign a damn lease. Let us wait to see what happens. But I would really hope—

Members interjecting:

The Hon. K.O. FOLEY: Well, guys, we are working to a time line. Legislation is not necessary at this point.

Ms Chapman: What—this year, this decade?

The Hon. K.O. FOLEY: Listen to it; the member opposes it. The deputy leader has come out and approved the project, but now she is saying 'this decade'. Vickie, Vickie! The member for Bragg has just told us how much she loves the project. Let us see if it ever becomes legislation; let us see what that would mean. The Adelaide City Council should get to work, do its job, and for once show true leadership. In saying that, I am not critical of the Mayor, Michael Harbison, because he has shown leadership on this issue; however, he is but one person. I would like the rest of the council to follow the leadership of the mayor and support the project.

TOUR DOWN UNDER

Mr BIGNELL (Mawson): My question is to the Premier. What action has the state government taken to secure Pro Tour status for the Tour Down Under?

The Hon. M.D. RANN (Premier): I think many of us are looking forward to the grand final at the weekend. I have a bet on with my Victorian counterpart, and I am looking forward to seeing him wear a Port Power guernsey at the next special public event. But, of course, the other great thing for Victoria is that we know that when we are all over there for just two days the average level of IQ in Victoria is likely to rise. So, it will be good for Victoria and will be great for Port Adelaide. Whilst we have our grand final coming this weekend, we have the grand final of world cycling around midnight tonight. Of course, we know that the Tour Down Under will celebrate its tenth anniversary in January 2008.

The Tour Down Under is already the highest ranked cycling road race in the southern hemisphere, but it is more than just a sporting event. Since its inception, the tour has become one of the state's biggest tourism drawcards and a fantastic community-based festival. The Tour Down Under is about more than just being a spectator. Participation is a key motivator for visitors to the event, and there are opportunities for everyone of all ages and abilities to fire up their own cycling legs in the immensely popular Breakaway Series. I want to particularly commend the Minister for Tourism and the strong support of the member for Mawson who, of course, is rather celebrated around the circuits of Europe, but particularly at the Tour de France. As the patron of Team O'Grady, I know how much Stuart O'Grady has appreciated your support over the years.

Tonight we will find out whether we are the first place in the world outside Europe in more than 100 years to ever get pro tour status outside of Europe. That is a big thing: there are a lot of people in European cycling who do not want to see Europe lose its stranglehold on world cycling. This is a huge thing, and it is the first threshold decision. Then, of course, I am told that we are up against China; and we are up against California and Arnold Schwarzenegger to see whether or not, if there is to be a break on the stranglehold that Europe has

on world cycling, it will be us, California, China or maybe even Russia.

Tonight the UCI—the world heads of cycling—will meet to make that threshold decision. They will decide in Stuttgart, Germany (overnight) whether to expand the pro tour series to include the Tour Down Under. The UCI Pro Tour brings together some of the best races, the biggest teams and the best riders in the world. This would well and truly put South Australia on the word cycling map. Hosting a pro tour event will create an atmosphere in Adelaide akin to that created by the Australian Grand Prix. The city and surrounding regions will be buzzing with colour, excitement and thousands of interstate and overseas visitors.

The state government has been working for more than 12 months to position the Tour Down Under for Pro Tour status if the UCI decides to expand the series beyond Europe for the first time. The 2006-07 state budget provided an extra $2 million over four years to expand the number of teams and increase the race's profile internationally. Riding on the success of 2007's event, the 2008 Tour Down Under has been expanded to allow greater accessibility for cycling fans to cheer on the world's best cyclists. Currently, the riders and teams in the Tour Down Under do not accumulate points that go on to the next series. If we get part of the Pro Tour, as with Formula One, the winner in South Australia becomes the winner of the first Pro Tour event of the world in January and takes that title as tour leader on to the next event. It is about ensuring that, instead of getting six or seven of the world's teams, we get 20—all the world's teams.

I think, first up, it would be 18, but it means all the world's top cyclists, all the world's top teams will be required to come to Adelaide and be part of the Tour Down Under. Of course, that means a quantum leap in terms of international visitors and support crews and, most importantly, a massive increase in worldwide publicity. Of course, rather than being in a stadium or even a street circuit where you might get two hours of publicity, you get six days of continuous publicity (hour after hour) through some of the great scenic sites of our state—the Barossa Valley, McLaren Vale, Willunga, the Fleurieu Peninsula, the southern beaches, the Adelaide Hills—

The Hon. K.O. Foley: Alberton.

The Hon. M.D. RANN: —Mawson Lakes in the Deputy Premier's electorate and going through Ramsay in the northern suburbs. It is an incredible opportunity to get the kind of international coverage that money simply could not buy. Much work has been done. I thank the member for Mawson for his efforts at promoting the tour and securing hundreds of signatures of support for the state government's push for Pro Tour status. On top of tabling them in this place, he has also sent a copy of the petition to the head of the UCI, Pat McQuaid. Both the tourism minister and I have been talking to Pat McQuaid. I went to Europe to meet with him in May. I know that the tourism minister has also been to Europe to meet with Pat McQuaid. We have also been lobbying some of the icons of world cycling like Jean Marie Le Blanc, the former head of the Tour deFrance.

If we can bring this off, it puts us up in the world league of cycling—the first place outside of Europe ever to be able to be part of the Pro Tour. I know this will be a tough contest. We know, for instance, that there will be a 60 per cent increase in tourists from interstate and overseas over time, creating a larger economic boost for the state. In previous years, the Tour Down Under has attracted up to 16 500 international and national visitors. In 2007, the event contributed 11.5 per cent to the state's economy. Of course, as I say, a massive increase in worldwide publicity. We look forward to a tense night.

VICTORIA PARK REDEVELOPMENT

Mr HAMILTON-SMITH (Leader of the Opposition): My question is again to the Premier.

Mr Koutsantonis interjecting:

The SPEAKER: The member for West Torrens will come to order!

Mr HAMILTON-SMITH: When the Premier decides what to do about the Victoria Park redevelopment, will he fix the Britannia roundabout at the same time?

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY (Deputy Premier): I will have a bit more to say about the Leader of the Opposition's decision today to make the statements that he has publicly at another time. However, what I will say is that, if the leader is now suggesting that his support is conditional upon tacking other things onto it, let us see that for the politicking that it is. There will be no other project, no other work done, be it Britannia or anything else. This is about a lease for a grandstand: nothing more, nothing less. It is the lease for the grandstand.

SOUTH AUSTRALIA WORKS

Ms BREUER (Giles): My question is to the Minister for Employment, Training and Further Education. Is Mark Ricciuto the greatest player ever, and the mighty—sorry, wrong question. I am taking a stance, Mr Speaker. What assistance is the government providing to regions in South Australia (many Crows supporters amongst them) to help link skills development and jobs with the needs of local industry?

The Hon. P. CAICA (Minister for Employment, Training and Further Education): I am not so sure about the Mark Ricciuto question, but I know that the honourable member is aware of the outstanding program that is the South Australia Works program. I am delighted to inform the house that the state government, through South Australia Works in the Regions, will invest more than $7.7 million to link thousands of South Australians with skills and jobs that match regional industry needs. The South Australia Works regional program is driven by the 17 Employment and Skills Formation Networks across the state.

Each region has consulted with a wide range of organisations, agencies and employers with a view to addressing their local learning, training and work issues. This extensive consultation has resulted in the development of action plans for each region, with a global target to assist over 8 000 participants and with a minimum of 3 350 people to gain employment. I am also pleased that the South Australia Works contribution will be boosted to over $12 million with additional funds being contributed by other state, commonwealth and local government agencies, industry and community organisations.

Highlights of some of the skills programs being undertaken this year include (and I know that members are interested as to whether their areas will be represented):

- Northern Adelaide—the Developing Skills for Life project, which will fund BoysTown to support young people disengaged from school and work to develop the personal and job skills required to enter the workforce.

- Eyre Peninsula—a case management project that will provide personal support and training to groups and individuals in the region to overcome barriers they face in securing employment or moving into new areas of work.
- Whyalla—a project to meet workforce demands in mining, transport, manufacturing, aquaculture, building and construction and commercial cleaning.
- Riverland—a multi-trades project designed to address the region's skills needs in manufacturing.
- Northern Region—the Stepping Stones project, designed to assist young indigenous people enter apprenticeships and traineeships.
- Western Adelaide—the Connecting in Australia project to provide training and job opportunities for new arrival migrants in the metal trades, including building and construction.

This year, $30 million will be directed to the broader South Australia Works strategy for learning, training, work and industry programs, with over $25 million being funded by the state government and the remainder leveraged from commonwealth, local government and community organisations. This funding will assist over 24 200 South Australians to take part in skills development and job programs across the state. Through our outstanding South Australia Works program (which I know every member of the house is aware of), we are continuing to achieve excellent employment and training outcomes for South Australians across our state.

WATER REUSE

Mr HAMILTON-SMITH (Leader of the Opposition): My question is again to the Premier. Has he written to his water security minister, the Treasurer and his infrastructure minister in the same terms as he wrote yesterday to the Chairman of SA Water?

Yesterday the Premier told the house that he had written to the Chairman of SA Water, Mr Philip Pledge, reiterating his opposition to the use of treated effluent in drinking water, yet on the same day his water minister confirmed (as the opposition revealed on Tuesday) that a desalination working group, which included senior officials from SA Water, transport and infrastructure, and the Department of Treasury and Finance, reporting to their respective ministers, had continued to work on the proposals and costings for the treatment of effluent and its transfer to Adelaide drinking water, in spite of his instructions.

The Hon. M.D. RANN (Premier): This is somewhat bizarre. Maybe we could go into what is called spring or summer repeats so we get the message firmly across. The fact is that in January I publicly announced cabinet's position. Cabinet's position and the government's position was quite different from the Liberal Party's position. The Liberal Party's position was for South Australians to drink treated sewerage water. That is their right. Our position was that we would increase the usage of recycled sewerage water for irrigation purposes. That is what we said. In fact, we have 20 per cent currently being recycled compared with 9 per cent nationally. We will take it up to 45 per cent but not for drinking water. That is the Liberals' policy: that is not our policy. This was also the position of the cabinet. What we have simply done is remind Mr Pledge—who is Chairman of SA Water—what cabinet's position is, was and will continue to be.

BROOK, Prof. B.

The Hon. L. STEVENS (Little Para): Will the Premier inform the house about the latest achievement of Professor Barry Brook, the Sir Hubert Wilkins Chair of Climate Change at the University of Adelaide?

The Hon. M.D. RANN (Premier): I am delighted to answer this question. In my capacity as Minister for Sustainability and Climate Change, I must say it was terrific to be with Al Gore on Friday and to hear what he said about what the South Australian government is doing in terms of climate change. I am pleased to inform the house that Professor Barry Brook has been named one of Australia's top 10 young scientists by *COSMOS* magazine. *COSMOS* is a science magazine aimed at integrating science into every aspect of our culture. It is published in Australia but has a global outlook. I am advised that it was launched in 2005 and already has achieved 14 journalism and industry awards, including Magazine of the Year at the 2006 Bell Magazine Awards. The list of the top 10 young scientists was compiled by the editorial advisory board, which includes well-known US astronaut, Buzz Aldrin, who was part of the first mission to the moon, along with Neil Armstrong. Of course, he was the second person to step onto the surface of the moon, but the first person photographed on the surface of the moon.

The Hon. P.F. Conlon: That we know of.

The Hon. M.D. RANN: As the Minister for Infrastructure says, 'That we know of.' Buzz Aldrin is on the advisory board, along with Alan Finkel—a neuroscientist and philanthropist who was appointed a Member of the Order of Australia in 2006 for his contribution to science and education—and my very good friend Robyn Williams—the well-known Australian science journalist and ABC broadcaster who is a member, with me, on the Australian Science Media Council.

This award provides national and international recognition for Professor Brook's outstanding contribution to climate change research, conservation biology, ecosystem stability, ecology and genetics. It is also recognition of the strong climate change research capacity that we have in this state. It will help promote the valuable work being undertaken at the Research Institute for Climate Change and Sustainability, both nationally and internationally. We know that in order to tackle climate change we must reduce greenhouse gas emissions. However, some impacts are now inevitable from the emissions that have already been put into the atmosphere and that is why the research undertaken at the institute will be vital to determine what impacts are likely and how we can prepare and respond to these impacts.

That is why the government announced it would fund the Sir Hubert Wilkins Chair of Climate Change at the University of Adelaide as a way to evaluate the impacts of climate change on South Australia such as extreme events, bushfires and invasive species. The university has built on the state government's $1 million investment in the Chair of Climate Change and created the Research Institute for Climate Change and Sustainability, which I launched in August.

Professor Brook is already known as one of the very best researchers on climate change the world. In 2006 he was the youngest ever recipient of the Fenner Medal, which is awarded by the Australian Academy of Science to the best scientist in Australia under 40 years of age. Previously a professorial research fellow at Charles Darwin University, Professor Brook's contributions to the fields of conservation biology, population modelling and extinction theory are

internationally recognised. Of course, being a world expert in extinction theory is extremely helpful in a state which has a no species loss policy.

I have to say, with some measure of humility and pride, that we have actually gained a species since we have been in government. The Tamar wallaby became extinct in South Australia. We discovered that a former governor of South Australia, Sir George Grey, had gone to New Zealand and lived on an island in the Hauraki Gulf and took some Tamar wallabies with him. These wallabies, with a New Zealand accent, over 150 years or so flourished because they had no predators. They were extinct here and, in an arrangement made between our government and the former minister for the environment (now the Minister for Health), we arranged for 100 Tamar wallabies to come across the Tasman Sea to be re-acclimatised. I understand there have been subsequent generations in those four or five years.

Ms Chapman: How many have lived?

The Hon. M.D. RANN: There are a lot. They have been breeding at the open range zoo.

The Hon. J.D. Hill interjecting:

The Hon. M.D. RANN: The first one didn't fare so well, but perhaps it would be bad taste to talk about that. But, anyway, it is great to think that we are a state that had a species that became extinct and we have a no species loss policy and we are now ahead on points. We have got one back.

The Hon. M.J. Atkinson interjecting:

The Hon. M.D. RANN: The former premier, Mr Kerin, and I have both had difficulties handling pigeons at events, and we are not going to go into that, either.

Previously a professorial research fellow at Charles Darwin University, Professor Brook is internationally recognised. He is a recipient of the Australian Flora Foundation Prize, Kyoto Professorial Fellowship, and has been listed in *2000 Outstanding Scientists of the 21st Century*. Professor Brook is an outstanding asset to the state, further boosting South Australia's reputation as a centre of excellence in learning and research. His role will also facilitate collaboration with South Australia's other research institutions, and will be instrumental in establishing a working relationship with the government to ensure that the research informs policy development. So I take this opportunity, on behalf of all members of the house, to congratulate Professor Brook on his inclusion in the top 10 scientists list.

Mr Koutsantonis interjecting:

The SPEAKER: Order!

Mr Koutsantonis interjecting:

The SPEAKER: Order! The member for West Torrens is warned.

WATER SECURITY

Mr WILLIAMS (MacKillop): My question is to the Minister for Water Security. To assist Riverland food producers through the drought, will the government now consider the purchase of water from upstream? Stakeholders have observed that, in the short term, purchased water could be used for permanent plantings and in the longer term fulfil our commitment to the Living Murray program.

The Hon. K.A. MAYWALD (Minister for Water Security): I thank the member for his question. There is indeed a very difficult situation emerging within our irrigated horticulture districts. We have a market that is providing for water to be available for purchase for irrigators to enhance their allocations during this very difficult time. However, the price of that water is absolutely skyrocketing at the moment, as you would expect when you have a significant supply and demand issue. South Australia has a policy to purchase water from the marketplace for our Living Murray objectives, to achieve the 35 gigalitre target of water for the Living Murray within South Australia. Thirteen gigalitres of water has already been purchased out of the market and is currently going through the process of the Murray-Darling Basin Commission for listing on the register for the Living Murray project. South Australia is the first jurisdiction to actually deliver real water on to the Living Murray target. We have already purchased that water and it is currently going through that process.

GLENSIDE HOSPITAL

Ms CHAPMAN (Deputy Leader of the Opposition): My question is to the Premier. Why are the owners of the Frewville Shopping Centre being given first option to purchase the Precinct 4 site at Glenside Hospital as a retail and commercial area? How does the government propose to independently value the site, and will it require the retention of the heritage wall on the southern boundary?

The Hon. P.F. CONLON (Minister for Infrastructure): I think it is terribly important that a government meet the undertakings that it enters into. I think it is terribly important that, if we as a government say to someone that we are going to do something, we should then go on and do it. I think it is equally important as the government taking over from someone else who has told someone that they are going to do something that it does not change the rules on them, that it continues to go on and do it. Can I indicate that the original undertaking to the group in question was made by the previous Liberal government, from memory in a letter—

Members interjecting:

The Hon. P.F. CONLON: I do not have it with me, but I will provide it to the Deputy Leader of the Opposition, if she wishes. But it was in a letter signed under the hand of Iain Evans, the member for Davenport. It may well be the position of the opposition that you can do a deal and go back on it. Certainly, it would appear to be the case. That is often their position, but it is not the position of this government. The obligation, originally created—

Ms Chapman interjecting:

The Hon. P.F. CONLON: Including the surrounding wall that I think you mentioned. I do not have the material with me, but I will try and get my hand on that and provide it. But I can refer to two letters signed by ministers of the previous government indicating that this is what they would do for the people in question. I have to say that you may have been wrong when you did that. You may have a point, you may have been wrong. The Liberals may have been wrong when they did it and they may have a point. They certainly did get a lot wrong. But the truth is this: a government giving an undertaking to someone should meet it.

Ms CHAPMAN: Can the Premier advise how many of the 299 regulated trees, of which 191 are significant, under the current legislation, on the Glenside Hospital site will be removed to facilitate the proposed redevelopment?

The Hon. M.D. RANN (Premier): I am delighted to answer this question. I just want to say that I think the deputy leader would be the first to acknowledge that this government is planting three million trees—

The Hon. K.O. Foley: Million!

The Hon. M.D. RANN: —three million trees, more than any previous government in history, between Gawler and Aldinga, in a series of interlinked urban forests. We have now decided to go further and even plant two and a half million trees as part of our River Murray forest initiative. So trees are dear to my heart. Therefore, I will get you a report on this matter sine die.

NAIRNE PRIMARY SCHOOL CROSSING

Mr GOLDSWORTHY (Kavel): My question is to the Minister for Transport. Can the minister explain—

Members interjecting:

The SPEAKER: Order! The member for Kavel.

Mr GOLDSWORTHY: Can the minister explain what priorities are higher on the government's agenda for children's safety than the upgrade of the Nairne Primary School crossing and adjacent road intersection? In an article in *The Advertiser* on Saturday 15 September, the Minister for Road Safety ruled out any funding to improve the safety of children at this dangerous school crossing and intersection.

The Hon. P.F. CONLON (Minister for Transport): On behalf of the Minister for Road Safety, I will get more specific information for the member. It has been a rule observed by this government throughout its term that it uses objective criteria established by expert advice. I think it is very important that ministers do not actually substitute their views on what project they should implement in relation to road safety in front of the advice given to them by departmental officials. That advice may not always be right, but I am absolutely certain that it is always given in good faith. I think that the proper approach—and road safety is an extremely emotive issue given that we cannot do everything that everyone asks for—is to rely on the advice of the departmental experts.

The best example I can give of this is one that relates to my own electorate. Before I was the Minister for Transport, and after I was first elected in 1997, I wrote letters to your former minister for transport, and ours, about the need for some traffic lights on the Morphett Road and Cliff Street intersection. When I became the Minister for Transport, I thought that at last I could realise this objective. I went to see the officer concerned and he said, 'Well, we could do that but we've got this list of priorities and we have to move it from about 99 up to the top. We can do that if you really wish.' I said, 'Well, thank you', and we still do not have the traffic lights. It applies for everyone on both sides of the house: the criteria should be objective and set by expert advice from the department.

ABORIGINAL DEATHS IN CUSTODY AGENCY REVIEW

Dr McFETRIDGE (Morphett): My question is to the Premier. Has the officer appointed to conduct a government-wide review of progress made by individual agencies on the recommendations of the Royal Commission into Aboriginal Deaths in Custody reported and, if so, when will that report be made public? In the 2004-05 annual report of the Aboriginal Lands Parliamentary Standing Committee, the then Department of Aboriginal Affairs and Reconciliation chief executive, Mr Peter Buckskin, reported to the committee by letter dated 21 January 2005 that DAARE had engaged an officer to conduct a government-wide review.

The Hon. J.W. WEATHERILL (Minister for Aboriginal Affairs and Reconciliation): I do not know the answer to that question, but I will take it on notice and bring back an answer to the house.

COUNTRY HEALTH

Ms CHAPMAN (Deputy Leader of the Opposition): Why does the Minister for Health continue to allow the exclusion of country people from adequate health services compared to city residents? Four weeks ago, a woman was required to travel for two hours to the Royal Adelaide Hospital to have a mastectomy. After surgery on the Wednesday afternoon, she was required to leave the hospital the following Friday morning as the bed was needed for someone else. While being driven home, her wound started to leak and, after contracting an infection, she required antibiotics and had to be readmitted for another eight days. She has to return to Adelaide for six to eight weeks to have radiotherapy, and she resides 16 kilometres short of the 100-kilometre radius of Adelaide. She therefore receives no transport and no accommodation assistance.

The SPEAKER: I again remind members that debate is out of order both in the conclusion of a question and in the answering of a question. The Minister For Health.

The Hon. J.D. HILL (Minister for Health): I am happy to take the general question. I am not familiar with the woman's particulars that the deputy leader has given, because the deputy leader has not given me notice about this matter, and the woman has not contacted my office, as best as I can understand. If she has, I cannot say that I have seen the details of her objections. In terms of the general propositions about country health, this government is determined to give people in country South Australia a much fairer go and a much better access to health services. In fact, over the last few months, I have made a number of statements to this house—and in the public arena—about how we are going to do that. So, I will just summarise those actions that we are taking.

The reality is that something like 550 country residents are in an Adelaide hospital on any given day of the week, so approximately 45 per cent of the money we spend on country patients is spent in Adelaide hospitals. One of the things we intend to do is to try to transfer as much of that activity as we can into country hospitals so that country people will have to—

Ms Chapman interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: Mr Speaker, I think the deputy leader has a real failure in her approach to these issues. She always tries to find a political angle; she is never really interested in the substance of the issue. She is never really interested in decent policy debate. She is never really interested in getting something right or improving it. All she wants to do is find a political angle and attack it—

Ms Chapman interjecting:

The Hon. J.D. HILL: —and when she starts to hear an answer which is going in a direction that does not fit her political angle, she interrupts in this kind of tragic and trivial way. This is a serious question and I intend to give it serious consideration. It may take a little bit of time and I would appreciate it if the deputy leader would just sit back and listen for a while.

The reality is that we are trying to build up services in country South Australia so that we can provide more services

to people closer to where they live. At the last budget, I announced that we had identified four hospitals—Port Lincoln, Whyalla, Berri and Mount Gambier—for additional services. We want to build up services in those hospitals. We want to have more doctors there capable of treating more people with a broader range of things. We want to have more obstetrics there, more urology, more general surgery, more orthopaedics and more cancer treatment for people from country South Australia. If we can do that—and it will take some time, planning and effort—we will be able to transfer resources from the city into country areas and people who reside in country South Australia will have less distance to travel and those services closer to home.

That is because we are planning to have an integrated country health system. We are in the process of planning that with country people at the moment, with clinicians and community representatives. That takes time and it is difficult, but at every single step of the way that we have tried to advance this the Deputy Leader of the Opposition has attacked it and she has made scurrilous comments about our intentions and motivations. Our motivations are pure. We are trying to do good things for people in the country. That is exactly what we are trying to do but it does take time.

To advance those four general hospitals and the extra services, Country Health SA has started advertising for people to be directors of those services so that we can have a greater concentration of services. In addition to that, in association with those four general country hospitals, we will network a range of smaller hospitals in country South Australia into those hospitals so that the doctors who are placed at those four broader country hospitals can provide services by travelling to those other hospitals and nearby facilities; so, in addition to the four hospitals being upgraded, other hospitals that are in reasonable proximity will be upgraded as well with access to greater services. That would mean, for example, if a general surgeon were placed at Port Lincoln, that general surgeon may spend one day a month in a particular hospital providing services to that community and another day a month in another hospital and so on.

We will network these services and, over time, I would like to see more of that 45 per cent of the country health dollar which is spent in the city spent in the country. This is something that our government is committed to doing, and to do that we need to make changes in the way we deliver country health, but all we get from the other side is nitpicking criticism because they are more interested in the politics of individual country health boards than they are in resolving the issues of people who are ill in country South Australia. It has bedevilled country health for decades, this petty debate about whether individual boards exist that control the resources within that particular area. That kind of thinking has meant poor health outcomes for country people and, eventually, we will have a debate in this house about it, so you can put your thinking on the line. We will argue the point.

In addition, the patient-assisted transport scheme has been in operation for a number of years under both sides of politics and it has had precisely the same kind of arrangements. The subsidies are provided to people who have to travel over 100 kilometres. Since we have been in government, in the past six to 12 months, we have initiated a review of that scheme which will provide a greater range of possibilities for people in country South Australia to be able to get assistance to travel for services where they are needed. We are trialling that on Yorke Peninsula, and if it succeeds we will be able to roll that out in country South Australia. It will mean that a greater range of people, including the person to whom the Deputy Leader of the Opposition referred, will be able to get access to assisted transport. This is a process that we have to roll out through negotiation and discussion with country people.

The great thing is, of course, that I am being attacked for not having done it, but every time I announce that I am going to do something the Deputy Leader of the Opposition attacks me for not consulting. When I tell her that we are consulting she attacks me for not doing it. That is the trick; that is the way that the Deputy Leader of the Opposition works, and that is the easy politics of being in opposition. The hard politics of being in government is to make substantial changes on the ground to get benefits and improvements for people in South Australia.

HOSPITALS, WINTER DEMAND

Mr KENYON (Newland): My question is for the Minister for Health. Has the government's winter demand strategy succeeded in coping with extra demand, and what has been the impact on our busy emergency departments?

Ms Chapman interjecting:

The Hon. J.D. HILL (Minister for Health): I thank the member for his question. The deputy leader's interjection of course once again trivialises what should be a serious debate by the quick throwaway political line in which she likes to specialise in this place. But the reality is that the government is doing serious things to address the health needs of South Australians. She does not like it; she cannot get hits, because she always plays the political card, never the policy card. She does not understand health policy.

Whilst the number of patients attending our hospitals fluctuates very significantly in South Australia, we do know that winter time, of course, is the busiest time for our EDs. It is obvious why—with the winter break, people tend to get flus and colds, and so on, and for people with heart disease, symptoms increase. I can inform the house that this winter has been the busiest on record in South Australia despite a reasonably mild and dry winter. A record 94 229 people were treated in our busy metropolitan hospital departments over the winter period—a 5.37 per cent increase on winter 2006, or 4 803 additional presentations. Most of the increase occurred in just the one month of August when 4 042 presentations, in addition to last year's number, occurred. That is an increase of just under 8 per cent.

In anticipation of this increased demand, the government funded a targeted winter demand management strategy. This strategy has a military style operation with resources being able to be moved rapidly to where they are required across the system. Up to an extra 150 beds are made available on any given day, and our hospitals work together to share the load and resources. Those extra beds, of course, are also supported by extra clinicians. In 2006-07 we were successfully able to recruit an extra 31 medical, nursing and support staff dedicated to our emergency departments. Of course that is in addition to all the other hundreds of extra doctors and nurses recruited for general hospital work.

In the longer term, our Health Care Plan will massively expand our busy emergency departments at Flinders Medical Centre and the Lyell McEwin Hospital, with work on both sites to start this year. Our new Marjorie Jackson-Nelson hospital will achieve Australia's most advanced ED also. Meanwhile, our GP Plus health-care strategies are helping to keep people healthy and out of hospital. Just last month, for

example, the Premier announced that funding for out-of-hospital programs will more than double.

In health, by recruiting more doctors and nurses, increasing health prevention, and reforming our health system, we are really investing in the future. I would like to take this opportunity, as I do as often as I can, to pay tribute to the doctors, nurses, the allied health workers and others who work in our emergency departments, who care for all South Australians at any time of day and often during the night under the most pressured conditions. I think we all really appreciate the service they provide.

BUSHFIRE RISK

Mr VENNING (Schubert): My question is to the Premier. What steps is the government taking to manage bushfire risk, and will it remove the Native Vegetation Act obligation to obtain permission for landowners to undertake cold burns or to provide adequate firebreaks? A CSIRO report, commissioned by the Climate Institute, shows conditions conducive to bushfires have become more common in the Adelaide area since 1980. It further suggests that a forest danger rating used by the fire service will need to be upgraded to reflect the heightened level of risk. CFS chief Euan Ferguson has previously expressed concern at the 12-month delay for approval by the Native Vegetation Council to permit a cold burn.

The Hon. P.F. CONLON (Minister for Transport): I will gain a full answer from the Minister for Emergency Services in another place, but I will make a couple of points. The first is that, since we came to government in 2002—and I can speak with some pride as a former emergency services minister—we have dramatically increased the funding to the Country Fire Service from the base it had then. It is the largest increase it has seen. We did things such as profoundly and dramatically increase by more than 400 or 500 per cent (I will check that figure) aerial firefighting capacities in the state. I say this again with some pride: we did institute administrative reform of the most profound root and branch we have ever seen for the organisation. I can say that we are proud of what we have been able to do.

After very serious bushfires during our term of government, the Premier instituted the Premier's bushfire conference (I think it was called that) which produced a set of recommendations and which were implemented. We have taken it more seriously than any government I can recall. The argument from the CSIRO is one concerning the effects of climate change, and it is also something that this government has taken very seriously from the day we came to government. In fact, we did listen to the CSIRO a long time ago, and I will contrast that to the position of the federal government which has consistently ignored and denied all evidence on climate change, and has been dragged kicking and screaming by the Australian populace to finally having a position on things such as global warming. I am happy to obtain a full report, but I am more than happy on this issue to point to the record of this government and contrast it with the record of the previous government and, even more importantly, contrast it with the record of the federal government.

LASZCZUK, Mr S.

Mr KOUTSANTONIS (West Torrens): Will the Premier inform the chamber of the recent announcement of *The Australian*/Vogel Literary Award for 2007 and why it is significant for South Australia?

The Hon. M.D. RANN (Premier): I cannot think of anyone more appropriate to ask me a question on literature. I know of his interest in the Greek classics, for instance. In fact, on many occasions, we have discussed the Iliad—

The Hon. M.J. Atkinson: He's always quoting Homer!

The Hon. M.D. RANN: I was delighted to learn that Stefan Laszczuk is this year's winner of *The Australian*/Vogel Literary Award for his latest novel *I dream of Magda*. The Vogel award is the most significant award of its type in Australia for a young writer under 35 years of age. The award includes a prize of $20 000 and publication of his novel next year by Allen & Unwin. In the past, it has kick-started the careers of writers such as Tim Winton, Kate Grenville and Andrew McGahan. It is great to see Stefan joining such wonderful company. Stefan Laszczuk is an outstanding young writer who has strong connections to South Australia. Stefan has said that he discovered his literary voice under the supervision of Tom Shapcott while completing his Masters in Creative Writing at the University of Adelaide.

In 2004, I fondly recall presenting Stefan with the award for an unpublished manuscript at the Festival Awards for Literature for his novel *The Goddamn Bus of Happiness*, which he had written while studying. As part of that award, the book was published by Wakefield Press, which is specifically funded to publish work by South Australian writers. He is now working to towards a PhD in creative writing at the University of Adelaide. Through our support for creative writing and literature, the South Australian government aims to create a nurturing environment for writers, an environment which gives talents such as Stefan's the best possible chance of being realised.

The government has supported the highly acclaimed creative writing course at the University of Adelaide since its inception 10 years ago, and I want to recognise Nicholas Jose, who is the current professor. It currently has 33 PhD and 22 postgraduate students and has been instrumental in producing many of South Australia's most successful writers, including other Festival Awards for Literature winners, Cath Kenneally and Rachel Hennessy. It has a distinguished list of affiliates and visitors, including Nobel Prize winner J.M. Coetzee, previous Vogel winner Eva Sallis, Kerryn Goldsworthy, noted UK authors Jane Rogers and Marina Warner, and New York based biographer Hazel Rowley.

The South Australian government is extremely proud of Adelaide Writers' Week, which is Australia's longest running, most anticipated and influential literary festival. The Festival Awards for Literature, created by the state government, are national awards presented every two years as part of the Adelaide Festival during Adelaide Writers' Week. They celebrate writing culture at a national level and in this state, and include specific categories for South Australian writers.

Other initiatives, organisations and programs that we support include (as the honourable member would know) the Allwrite program for young readers and writers as part of Come Out, Wakefield Press, the South Australian Writers' Centre and Friendly Street Poets. It is very pleasing to see that South Australian writers are making their mark on the literary landscape. I congratulate Stefan on his achievements, and look forward to seeing *I dream of Magda* in print.

HAZARD DEFAULT NOTICE

Mr WILLIAMS (MacKillop): Will the Minister for Education and Children's Services advise whether she considers it an appropriate use of the Occupational Health and Safety Act for a teacher to take out a hazard default notice against any member of a school governing council and, if so, who should be provided with a copy of the notice and what is the process for resolving the hazard?

The Hon. J.D. LOMAX-SMITH (Minister for Education and Children's Services): I can take that matter on notice. I understand that this is a legal document, but I am not sure that it is something that can be distributed. However, I will find out specifically with respect to the exact detail of that question.

COMMONWEALTH-STATE HOUSING AGREEMENT

Mr PICCOLO (Light): My question is to the Minister for Housing. What is the federal government's position on the future of the Commonwealth-State Housing Agreement, which I understand expires during 2008?

The Hon. J.W. WEATHERILL (Minister for Housing): The Commonwealth-State Housing Agreement arrangements have really been in place for over 50 years. It is a method of funding the public housing systems of the nation, which are home to some 350 000 Australians today. Since 1996, the Howard government has stripped $3 billion out of the Commonwealth-State Housing Agreement. South Australia has had a 36 per cent reduction, in real terms, with respect to that Commonwealth-State Housing Agreement, which has put pressure on a range of state government agencies, and also across the nation.

Just today we saw independent reports of the housing crisis in our communities. Amongst other solutions proposed by the Australians for Affordable Housing consortium is a renewed investment in social housing, which is something for which we have been pleading for many years. However, not only has the Howard government not acknowledged the role of public housing in this community but, dramatically, on the day of Kevin Rudd's Housing Affordability Summit in Canberra, the minister responsible for housing, Mal Brough, announced that the Howard government would, effectively, scrap the basis for the Commonwealth-State Housing Agreement; that is, funding that is provided to the states to develop housing stock and run social housing services will, essentially, be put out to tender.

This is something that will become an election issue during the upcoming federal campaign. South Australians—indeed, all Australians—will have a choice about whether they want a future for the public housing system in this nation. State and territory ministers have been leading work for a new commonwealth-state housing agreement to start in 2008, but our proposal maintains the core funding for the public housing system and builds on that, with a number of other programs, to drive an increase in the supply of affordable housing.

We have received great cooperation from the commonwealth opposition about these matters, but not the commonwealth government. We have seen a dramatic shift in position from the Howard government. First, he says that people who own their own homes are not complaining that they are becoming more valuable and that there is a sense of realism. He said that he does not get people stopping him in the street saying, 'John, I'm angry with you because the value of my house has increased too much.' He said that they are not saying that. That is the Prime Minister. Back then he was saying that his government was ensuring housing affordability by keeping interest rates low. Five interest rate rises in a row have challenged that assertion. Later, after reading some polls and some concern in some marginal seats, he started blaming the states for preventing new land release, although, a little later, he returned to becoming a doubter about whether there is a crisis by saying that 'Kevin Rudd has built the housing crisis'. We need a federal government that is committed to not only a public housing system but also a serious national affordable housing strategy.

GRIEVANCE DEBATE

RIVERLAND, WATER ALLOCATIONS

Mr WILLIAMS (MacKillop): I am extremely disappointed with the answer I received to a question I asked of the Minister for Water Security and the Minister for River Murray. The government seems to have no plan whatsoever to help out struggling fruit growers in the Riverland and to try to save their permanent plantings which provide such an economic benefit to the state. We know the irrigators on the Murray River are sitting on a water allocation of about 16 per cent of their full water licence. I am told by irrigators that most horticultural crops grown in the Riverland would need a minimum of 40 per cent of the water entitlement of the licence holder in order to ensure that the tree crops and permanent plantings survive the current season—not to grow a crop but, rather, just to get the plants to survive the summer months. I am told that a 50 per cent allocation would ensure the survival of the crops and allow growers to harvest a small crop in the next year. I am informed that the last year's 60 per cent allocation allowed them to have a crop from their plantings.

The problem we now face is that growers on a 16 per cent allocation are having to make dire decisions about how to manage their crops, fruit blocks and vineyards in the summer months. I am told that some of them have decided to try to save a small portion of their fruit block. They already have removed older and less economically valuable portions of their fruit block or vineyard. I am told that some are just sitting back, hoping and wishing. Some are expending huge sums of money trying to purchase the small amount of water that is available on the water trading market. The government has already committed to purchase 35 gigalitres of water to put into the Living Murray project. As the minister told the house today—and we all knew this—13 gigalitres has been secured already. In fact, most of it came from the dairy flats near Murray Bridge. The government still has a deficit of some 22 gigalitres of water.

The minister said today that the price of water has increased drastically in recent times, but that is the price of temporary transfer or leasing of water. I am told that the price of permanent trade water—and some water is still being traded as farmers and irrigators up and down the river system are moving out of irrigated agriculture—has not increased substantially and that some is available. The government is committed to another 22 gigalitres of water. I am asking the

government to go out and buy the water today. Some 16 per cent of it is available and could be leased to individual horticulturalists in the Riverland, specifically to save permanent plantings. That is something the government has already committed to spending money on.

Furthermore, the government is committed to spending a certain amount of money on the Living Murray project and can spend some of that money in other states and, indeed, it already has. As other states are committed to putting permanent water back into Murray River flows, the South Australian government can be part of that. So the government can go and use some of its committed funds for the Living Murray project to buy in excess of that 22 gigalitres of water that I have already talked about. There is an opportunity for the state government to use some of the money it is already committing to the Living Murray project, which is an ongoing project, and go out into the marketplace and purchase water. That water could be used in the immediate future to help those growers in the Riverland save those permanent plantings, which are essential to the state's future. Then, when the present crisis is over and the drought breaks—and we are not quite sure when that will be—the money that has been expended to save those crops, and the water that has been purchased with it, can then be used for its long-term intention, that is, to fulfil the state's commitment to the Living Murray project.

ENVESTRA

Ms PORTOLESI (Hartley): Many weeks ago I met with a constituent from the Kensington Gardens area of my electorate, who brought to my attention a situation of great concern to her in relation to her gas supply. My constituent informed me that Envestra, through its contractors Australian Pipeline Asset Management Trust, was in the process of replacing and upgrading the gas mains in the Kensington Gardens area. This, of course, is part of an overall capital expenditure program by Envestra to upgrade the pressure, safety and reliability of the gas distribution system, which I welcome. The physical area in question is bounded by Barnes Avenue through to Hyland Avenue, Kensington Road, Glynburn Road and Magill Road. I understand most of the project has been done, and the rest will be completed by the end of October.

The contractors, I am advised, produced two pieces of written communication which they sent to residents. The first notification was sent about two weeks before the scheduled work, followed by a notice two days before work was to commence, to advise householders that on that particular day the gas would be turned off. I want to be absolutely clear that my constituent at all times received friendly and professional advice and service from Envestra, APA and the Office of The Technical regulator. So, what is the problem, you might ask?

The problem is very simply this: residents had absolutely no warning or advice that, in the process of the upgrade taking place, if a fault was identified or regulations were not complied with on the householder's side of the fence, the gas would be turned off and not turned back on until the resident had rectified the problem—of course, at their own expense. This is exactly what happened in Brigalow Avenue where, in fact, one resident had to find, at very short notice, $3 000. Another resident was able to get a second quote, which left her without gas for a week, but it nonetheless cost her over $1 000. No-one disputes the residents are responsible for their homes but, to be left without gas for up to a week without any warning, is clearly unacceptable—and I believe it was in the middle of winter.

I am now pleased to report that, following representations I made on behalf of my constituents, APA and Envestra will amend its communication material, and I will refer directly to the communication. It states that the work will be undertaken with a view to:

- providing adequate warning that work is to be undertaken;
- providing clear advice that supply will be withheld when it is unsafe for it to be reinstated;
- advising that the cost of work undertaken by the consumer's licensed gas fitter to repair or place pipe work or appliances after the meter is at their cost;
- advising consumers of the availability of and contact details for APA service and installation to provide advice and, where requested by the consumer, an alternate quotation for notification of faults in their gas pipework or appliances.

The moral of the story is this. No issue is too small or marginal when it comes to getting a fair deal for my constituents, and that is what we have been able to achieve on this occasion. I will admit that I did wonder whether I was being a bit petty by going to the media on this issue, because I believe there was nothing intentional or malicious in the way APA went about its business—in fact, the opposite applies. But the result speaks for itself, and I take my hat off to APA and Envestra for making changes to their service delivery to accommodate this issue. In particular, Peter Sauer, manager of the Envestra network in South Australia, has been very helpful and professional at all times. Most importantly, I acknowledge my constituents for taking the time to bring this matter to my attention so that others in the community will benefit from their experience.

DROUGHT

Mr VENNING (Schubert): As a South Australian and a proud supporter, I wish the Port Adelaide Football Club all the best for Saturday. All South Australians are with the club and we all know they will do us proud. Special good wishes to constituent Justin Westoff. We are certainly very proud of him.

The continuing drought that this country is facing is causing great problems for everyone. However, farmers are experiencing far worse conditions than anybody else. Their livelihoods are at stake and in many cases have been completely destroyed. Today, I rise to speak about the impact felt by South Australian farmers, to raise awareness of just how desperate their situation is. While those in Adelaide and metropolitan areas are, understandably, concerned about their gardens dying or the cost of purchasing a rainwater tank, those on the land are doing it tough—real tough. If the drought continues, as it is forecast to do, many farms will struggle to remain viable in South Australia, and the state could lose much of its agriculture industry. This would have enormous impacts on this state's economy, because South Australia is very reliant on agricultural income, as most members would know. Something urgently needs to be done.

I recently met with dairy and produce farmers from Mid Murray areas, and they are desperate, desperate people. The number of dairy farms in South Australia has reduced from around 120 farms to 40—from 120 to 40, contemplate that. This trend is set to continue, with predictions being made that within the next six to eight seeks a quarter of the remaining dairies on the Lower Murray will be shutting down. Hundreds of dairy cows are going to the slaughter every week, as the cost of feeding them in relation to the profits made from milk

is just too high. The largest abattoir in the region is booked out until late October, with around 300 dairy cows being slaughtered every week.

With each cow producing between 20 and 30 litres of milk a day, that is over 50 000 litres of milk per week less being produced by South Australians for South Australians. Let me for a moment apply these numbers in a way by which everyone can gauge the magnitude of the problem in real life terms. Take, for example, the favourite drink of many South Australians, me included, the 600ml iced coffee, a South Australian icon. The slaughter of dairy cows currently being experienced in the Mid Murray region equates to having nearly 80 000 less iced coffees on our shelves every week. To continue using iced coffee as a example to illustrate the plight of dairy farmers, for every iced coffee sold the dairy farmer gets 26¢. So for every $3 spent by the consumer on an iced coffee the farmer sees 11.5 per cent of the price fetched for the finished product that his milk has made. Recently there was a price rise of up to 40¢ per litre for the price of milk; however, only 6¢ per litre of this increase has been passed on to farmers. One farmer said that to purchase grain and water for his cows his input cost is around 50¢ a litre, but he can only get 38¢ a litre at the gate. Many dairy farmers agree that they need to be getting 55¢ to 60¢ a litre for their milk for their farms to remain viable.

South Australian farmers are particularly angry regarding the freight subsidies offered to farmers from Victoria and New South Wales by their state governments, when our state government appears to be doing nothing. In some cases the freight subsidies that interstate farmers receive entitle them to the first 1 000 bales of hay or fodder being free of charge, and in other cases half of the total freight bill is paid for by their state government. This state government's inability to offer a similar subsidy to South Australian farms is having a severe impact on our farmers' access to feed.

What is now happening is that farmers from interstate who receive such subsidies are coming and buying all the hay, particularly from the Mid Murray area, as they can with the subsidy afforded interstate freight rates. This then means that there is no feed available regionally for the local farmers, so then they have to travel great distances to source some and, unlike their interstate counterparts, they have to pay full tote odds for the distance the hay is carted. This means that South Australian farmers, already at desperation point, have to incur even greater costs. You cannot blame South Australian hay producers for selling it to them—the freight subsidy usually equates to a higher price for the seller. The state government needs to act proactively, not reactively, and introduce long-term policies to ensure the long-term viability of the farming sector.

The outlook is very, very grim for our state's farmers, as many face disastrous total crop failures, and an inability to feed livestock due to the rising costs of grain. The situation for this state is diabolical. The state's economy will not only face upheaval but the unemployment rate will increase sharply too. It is a very sad and desperate situation and I implore the ministers and others from the other side, along with the federal government, to address this situation.

Time expired.

INTEREST RATES

Ms CICCARELLO (Norwood): I rise today to talk about interest rates and the Howard government's blatant indifference to their effect on hardworking Australian families. I am sure that all Australians remember the Prime Minister promising at the last election that he and his government would 'keep interest rates at record lows'. I think it is quite obvious that this was yet another of the Prime Minister's non-core promises, because last month we saw interest rates rise yet again, bringing the total number of consecutive interest rate rises since the Howard government came into office to nine, and five since the Prime Minister made the reckless and irresponsible promise to the Australian people. Those Australians who listened to the Prime Minister and believed that they too could share the Australian dream of owning their own home have every right to feel betrayed and out-of-pocket, including the 3 592 households that have mortgages in my electorate.

For an average home loan of $250 000, the nine consecutive rises under the Howard government equate to an extra monthly payment of $361, an extra yearly payment of $4 332 and, over the life of the loan, a whopping $108 324. With these sorts of figures, it should come as no surprise that working families are now experiencing the highest level of mortgage stress in Australian history. Recent census data shows that the number of households in mortgage stress has risen by 89 per cent between the 2001 census and the 2006 census. Over 500 000 households are now in mortgage stress, and one in four households in Australia with a mortgage is now in mortgage stress. Over that same period, in South Australia, the number of people in mortgage stress went up by 75 per cent and, in regional South Australia, by an incredible 113 per cent. Further damning evidence also comes from the most recent information from the *Reserve Bank Bulletin*. This showed that the proportion of household disposable income consumed by mortgage interest repayments now stands at 9.5 per cent, the highest in our history, and a 55 per cent increase from the time when Paul Keating was Treasurer. So much for the government's pledge to keep interest rates at a record low!

It is particularly enlightening to read what the government has recently said about all these interest-rate rises. First, we heard Mr Turnbull say that the effects of these rate rises have been 'overdramatised'. Then the Treasurer himself came out with the astonishing line, 'If you see a single digit in front of your interest rate, that is low.' Then, to top them all, the Prime Minister stated that 'Australian families have never been better off'. I do not know what planet the Prime Minister is on, but perhaps he should stop patting himself on the back and trumpeting his economic credentials and start listening to the financial concerns of Australian families.

Soaring childcare costs, rising petrol prices, skyrocketing grocery prices, record household debt and nine interest rate rises in a row do not deserve the glib answers that merely attempt to reflect on past glories. Australian families are hurting and they deserve a government that takes their everyday concerns seriously.

RING ROAD INTERSECTION

Mr PENGILLY (Finniss): I will not dwell on tragedies, except to point out that we had another tragedy on the Victor Harbor-Adelaide Road last weekend. I need to raise in this chamber the events surrounding the Welch Road, Waterport Road and the Noarlunga to Victor Harbor Road intersection. This has been the subject of grave concern to people in my electorate for a long time. Indeed, going back to February 2004, my predecessor the Hon. Dean Brown, wrote to the then minister, Trish White, regarding this intersection, calling

for lighting. He was advised at the time that the current treatment was consistent with similar junctions in a rural environment. The installation of street lighting at the location would cost in excess of $200 000 to design, etc., the council would have to become involved, funding would not occur in 2004-05, and they may look at it in 2005-06. Nothing happened. Last year, I wrote to the current Minister for Transport, the Hon. Patrick Conlon, about the same intersection after many constituents spoke to me raising concerns about it.

I was advised by the minister at that time that the Department for Transport, Energy and Infrastructure was doing a road safety audit. Here we are some 18 months later and still no audit has come through. We had a dreadful accident there last week. It is a matter of huge concern; in fact, the Victor Harbor *Times* has raised it as a major issue this week. The Fleurieu Road Safety Group, which has raised concerns about it, had called for speed limits to be introduced. All sorts of things have been called for. The City Manager of the Victor Harbor council, Mr Maxwell, was quoted at length, and nothing is happening. It is a huge cause for concern for the people of the South Coast and the many metropolitan people who go down to Victor Harbor. This situation is a nightmare. I am of the view that the intersection is very badly designed. It is confusing, badly controlled, badly lit and nothing is happening. I am desperately disappointed that this audit has not been completed, and I know that the council is very concerned.

You simply cannot let these things keep on going. Some poor soul lost their life last weekend. I do not know the circumstances of the accident and I will not go into that matter, because I think that is something that the family would not want me to do. However, the transport department has failed to get this audit completed, and 18 months later it is still not done. We still do not know the outcome. Why should the police, the SES and the CFS have to go out to deal with these horrific things time and time again when there have been calls for audits? The transport department, under minister Conlon, has failed to come up with the audit. At least if the audit was completed and we knew what needed to be done, we could push on with it, but we have nothing. I think that the RAA will definitely pick up on this.

My constituents are loud, clear and strong about it all the time. The editorial in *The Times* newspaper by the editor Carolyn Jeffries this week is excellent; it is spot on. I feel that we are being let down by an intransigent department led by an intransigent minister, and I am not impressed at all. The editorial states:

> It should not be a consideration of what the minimum requirements are to meet Australian standards, it should be what makes sense, is practical and will lead to improved road safety. Lighting might well be expensive, but it's essential. . . This intersection is going to come under increasing pressure in the next 5-10 years with the possible development of a major residential complex and commercial development. . .

Huge numbers are going down to that area. The editorial continues:

> The state government can no longer continue to fob off calls by the City of Victor Harbor, the local MP and the Fleurieu Road Safety Group. . .

It must act to properly investigate and fix up this intersection. I hope I never have to stand in this place again and talk about an accident at this intersection or another tragedy that has occurred down there. I think it is an absolute disgrace and it is a reflection on the inactions of the transport department and the minister that some 18 months later this audit has not been completed.

McLAREN VALE WEBSITE

Mr BIGNELL (Mawson): I rise to draw members' attention to a brand new website that was launched this week—www.mclarenvale.info—which shows off our great region of McLaren Vale and Willunga, and what a beautiful place it is—the gateway to the Fleurieu and its fine food, accommodation and, of course, wines. One of the quotes on the website states:

> It is an ideal spot, and the ideal liquid inspiration, to try to figure out a way to live near this tiny piece of paradise between the voluptuous hills of wine and the aquamarine sea.

That is not written by a local; that is written by Susan Gough Henly. She was talking up McLaren Vale in the US *Wine Spectator*, a respected international wine publication. McLaren Vale is being recognised around the world as Australia's leading wine region. It is also an area where sustainability is very important. The winemakers and wine grape growers play an enormous role in trying to protect the environment as they go about producing some of the world's great wines.

Wirra Wirra Winery received a number of commendations, trophies and prizes this year. The latest of those was the International Wine Challenge red wine maker of the year. Jock Harvey, the President of the McLaren Vale Wine, Grape and Tourism Association, stated the following:

> This is no best and fairest trophy at the local footy club. This award is the Oscars of the wine world and a serious accolade on the world stage for our region.

How true that is. To Sandie Holmes, Jock Harvey, and everyone else, and the McLaren Vale Grape, Wine and Tourism Association, congratulations on a fantastic website. They have been working for years to promote our region of McLaren Vale and its fine wine and food. This website will help further their cause and the cause of everyone in McLaren Vale.

I would also like to congratulate Gemtree Winery, a third generation family of winemakers. They have also picked up a number of awards this year, not just for their wines but also for the wonderful work they do in helping the environment. I was happy to be down there last year planting trees on the Gemtree site as part of the Greening Australia program. To Paul and Jill Buttery, to Mike and Melissa Brown, and Andrew and Helen Buttery, a fantastic job and congratulations, and well done on being named the South Australian Wine of the Year at *The Advertiser*/Hyatt South Australian Wine of the Year competition, which was held just a short time ago. Their 2004 Obsidian shiraz won the top gong.

Thanks also go to the Hyatt for putting on such a fine night, and to *The Advertiser* for the wonderful publicity that it gave to the awards. I was in the Gemtree cellar door on the Saturday morning, and Mike Brown and Paul Buttery were looking a little glassy-eyed. They had a very big night of celebration, and finished up at about 6 o'clock in the morning. Like a lot of other people, I was lining up to make sure that I could get my case of the Obsidian shiraz. I did have a bit of a taste, and it is a fine wine, and I am sure it will do even better in the cellar over the next few years.

Congratulations to Scarpantoni on winning the Jimmy Watson Trophy this year. It is the third year in a row that McLaren Vale has taken out the Jimmy Watson for Australia's best one year old red wine. It is really putting

McLaren Vale on the map after Geoff Merrill Winery won it two years ago and Shingleback Winery won it last year.

Mr Venning interjecting:

Mr BIGNELL: The member who represents the Barossa Valley keeps interjecting. I do not think that you have won any prizes in the Barossa this year. You can maybe make a speech next year or the year after. We have had a fine run of international and Australian prizes, and we are the premier winegrowing region of Australia.

While I am congratulating organisations and people in our area, I would also like to pass on congratulations to the Willunga A and B grade who became premiers over the weekend. I also congratulate the Emus of Morphett Vale. Although they are in the member for Reynell's electorate, a lot of people from the seat of Mawson play for the Emus, including my son, who has had three years in the junior teams. The Emus are a wonderful club. Morphett Vale brings up kids through the juniors, and they have gone on to win the flag for the last four years in a row. Congratulations to all those players and also to Glencoe, my old team, which won the premiership over Tantanoola in the Mid South-East. They beat Bob Sneath's team, the Tantanoola Tigers.

Time expired.

NATIONAL ELECTRICITY (SOUTH AUSTRALIA) (NATIONAL ELECTRICITY LAW—MISCELLANEOUS AMENDMENTS) AMENDMENT BILL

The Hon. P.F. CONLON (Minister for Energy) obtained leave and introduced a bill for an act to amend the National Electricity (South Australia) Act 1996.

Read a first time.

The Hon. P.F. CONLON: I move:

That this bill be now read a second time.

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

Leave granted.

Introduction

The Government is delivering on a key Council of Australian Government's energy commitment through legislation to improve the operation of the National Electricity Market.

The *National Electricity (South Australia) (National Electricity Law—Miscellaneous Amendments) Amendment Bill 2007* will make important reforms to the National Electricity Law. This Bill will streamline the regulation of electricity distribution networks by allowing a single regulator, the Australian Energy Regulator, to regulate all distribution networks in the National Electricity Market. This together with earlier reforms to transmission network regulation will ensure that the National Electricity Market has a single national regulatory framework for electricity networks.

The regulatory framework established by this Bill provides the appropriate balance between providing certainty for network businesses while providing avenues for the protection of consumers.

The Bill introduces important changes to the Australian Energy Regulator's powers including a new set of revenue and pricing principles that will guide the regulator in making regulatory decisions, clarify its information gathering powers in order for it to effectively undertake its functions, and introduce an element of transparency through the ability for the regulator to prepare and publish reports on the performance of regulated businesses. New merits review provisions have also been introduced to allow the review of the Australian Energy Regulator's decisions by regulated businesses and users and consumers, providing the appropriate checks and balances on the decision making process.

These reforms will also streamline the National Electricity Law's rule change process by improving the Australian Energy Market Commission's ability to handle and manage rule change proposal submitted by stakeholders while ensuring that the rule change process is still accessible to all relevant stakeholders.

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

Background

As Honourable Members will be aware, South Australia is the lead legislator for the National Electricity Law.

The existing co-operative scheme for electricity market regulation came into operation in December 1998 and was amended in July 2005 to implement important governance reforms to the National Electricity Market. The lead legislation is the *National Electricity (South Australia) Act 1996*. The current National Electricity Law is a schedule to this Act, and that Law, together with the Regulations and Rules made under the *National Electricity (South Australia) Act* are applied by the other National Electricity Market jurisdictions, that is, New South Wales, Victoria, Queensland, Tasmania and the Australian Capital Territory, by way of Application Acts in each of those jurisdictions. The Commonwealth is also a participating jurisdiction through the application of the regime to the offshore area.

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

In June 2004, the *Australian Energy Market Agreement* was signed by all first Ministers, committing the Commonwealth, State and Territory Governments to establish and maintain the new national energy market framework. This new framework saw the introduction of the *National Electricity (South Australia) Amendment Bill 2005* into the South Australian Parliament. As you may recall the 2005 Bill introduced important governance reforms to the National Electricity Market, through separating high level policy direction, rule making and market development, and economic regulation and enforcement.

As part of those reforms, the Australian Energy Market Commission and the Australian Energy Regulator were established. The two new statutory bodies were initially given responsibility for electricity wholesale and transmission regulation in the National Electricity Market jurisdictions. The 2005 Bill also enshrined the policy-making role of the Ministerial Council on Energy in the context of the National Electricity Market.

In June 2006, the *Australian Energy Market Agreement* was amended and signed by all first Ministers, committing the Commonwealth, State and Territory Governments to establish a consistent framework for energy access and specific reforms to the distribution and retail framework. Aspects of these reforms are the subject matter of this Bill.

As part of that commitment, an expert panel was appointed in December 2005 to provide advice on a national framework for energy access pricing. The Panel presented their report, the Expert Panel Report on Energy Access Pricing, to the Ministerial Council on Energy in April 2006. The Ministerial Council on Energy responded to the Expert Panel Report by announcing a set of policy decisions for its major energy market reform program. These policy decisions were publicly released in November 2006.

A subsequent legislative package will make further amendments to the National Electricity Law to regulate the retail electricity market, other than retail prices, and the non-economic aspects of distribution.

New regulatory arrangements for distribution

This Bill reforms the regulatory framework governing the National Electricity Market by conferring the economic regulation of electricity distribution networks on the new national institutions established in July 2005—the Australian Energy Market Commission and the Australian Energy Regulator. The Bill also recognises appropriate transitioning from jurisdictional arrangements to a national framework, maintaining the South Australian tariff equalisation arrangements, and maintaining obligations relevant to the sale and lease of the electricity distribution network in South Australia. I will elaborate on these matters further below.

The Australian Energy Market Commission and the Australian Energy Regulator's role will extend to include the regulation of gas transmission pipelines and gas distribution networks for all relevant jurisdictions. The broad framework outlined in this Bill will be largely replicated in the new National Gas Law which will be Introduced to Parliament in the coming months. These pieces of

legislation aim to ensure consistent national economic regulation of electricity and gas networks.

Also subject to separate legislation is the establishment of a national framework for the non-price regulation of electricity and gas distribution and retail, which is expected to be implemented during 2008 subject to jurisdictional agreement on that framework.

While a number of provisions of the National Electricity Law have been retained, albeit with some amendments, the new regulatory arrangements have required the inclusion of a range of amendments and additional provisions which I will outline. In addition, the National Electricity Rules will also be amended to provide for a national framework for electricity distribution revenue and pricing regulation.

South Australian arrangements

This Bill contains provisions that preserve important elements of the current South Australian regulatory scheme.

There are a suite of pricing arrangements which together serve to preserve the scheme of state-wide pricing for distribution services for all small customers. These provisions are currently located in the South Australian legislation and will be continued to ensure that this important principle continues to operate under the national framework.

The national framework also maintains existing obligations arising from the South Australian Electricity Pricing Order. These obligations formed part of the foundation for the privatisation of the electricity distribution network in South Australia. The recognition of these arrangements ensures that, in accordance with the terms of the Electricity Pricing Order, the regulatory guidance established as part of the privatisation process is continued.

The amendments to the National Electricity Rules include appropriate transitional provisions to manage the transfer from the South Australian jurisdictional arrangements to the national framework. I will outline these matters below.

Consultation

The Amendments to the National Electricity Law in this Bill have been subject to extensive consultation with industry participants and other stakeholders that began with the Expert Report in 2005. As part of the preparation of their report, the Expert Panel encouraged stakeholder participation in its review. To this end, the opportunity was provided for stakeholders to make written submissions on matters arising from the Panel's terms of reference. Stakeholders also had the opportunity to make written submissions on the Panel's Draft Report and to meet individually with the Panel after the second round of submissions had been considered.

Further consultation has been undertaken on the implementation of the recommendations contained in the Expert Panel Report. Two exposure drafts of the National Electricity Law were made available to the public in January and August of 2007 and an exposure draft of amendments to the National Electricity Rules was consulted on in April 2007.

The first exposure draft of the National Electricity Law was released for a six week stakeholder consultation period. A public forum on the exposure draft was also conducted. This forum explained the response to the Expert Panel recommendations, provided information on the content of the National Electricity Law, and provided stakeholders with an opportunity to comment and seek clarification on the key aspects of the legislation. Written stakeholder submissions were also invited on the exposure draft of the National Electricity Law. In total, 29 submissions were received in response to the exposure draft.

The second round of consultation on the National Electricity Law involved round table discussion with stakeholders on matters of workability. We take this opportunity to thank all parties for their valuable contributions to these important reforms. Stakeholder comments on the exposure drafts were a valuable contribution towards ensuring the effectiveness of this Bill.

National Electricity Objective

This Bill incorporates an amended version of the National Electricity Market Objective from the existing National Electricity Law. It is now known as the National Electricity Objective and will be mirrored in the National Gas Law.

The alignment between the objectives of the gas and electricity regime is an important foundation for the regime. A single consistent objective across gas and electricity will increase the prospect that the regimes remain closely aligned over the long term, even in light of the capacity in both regimes for interested parties to make applications to changes rules through the Australian Energy Market Commission. For this reason, the objectives clause is drafted as an objective of the law, rather than an objective of the market.

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

Just as the Australian Energy Market Commission must test changes against the objective of the law when making rules, the Australian Energy Regulator must perform its functions in a manner that will or is likely to contribute to achieving the objective of the law.

It is important to note that the National Electricity Objective does not extend to broader social and environmental objectives. The purpose of the National Electricity Law is to establish a framework to ensure the efficient operation of the National Electricity Market, efficient investment, and the effective regulation of electricity networks. As previously noted, the National Electricity Objective also guides the Australian Energy Market Commission and the Australian Energy Regulator in performing their functions. This should be guided by an objective of efficiency that is in the long term interest of consumers. Environmental and social objectives are better dealt with in other legislative instruments and policies which sit outside the National Electricity Law.

Form of Regulation Factors

Determining what services are to be regulated requires an assessment of the potential for market power to be exploited by a service provider.

In order to ensure that the appropriate regulatory framework is applied, this Bill creates new provisions for the recognition of two available forms of regulation: direct controlled network services and negotiated network services. Where electricity network services are neither classified by the Australian Energy Regulator as direct controlled network services or negotiated network services, the network service is not subject to economic regulation.

A direct controlled network service is a service for which the price is fixed by the Australian Energy Regulator in a revenue or network pricing determination. The National Electricity Law will provide the framework for either allowing the National Electricity Rules, via the Australian Energy Market Commission rule change process, to specify particular services as controlled by a price control mechanism, or allow the Australian Energy Regulator to determine the classification of services in a regulatory determination. Both decision makers are guided by the form of regulation factors.

Negotiated network services are those transmission and distribution services regulated under a negotiate/arbitrate regime. These services are not subject to upfront price control, but a binding arbitration mechanism is provided for the resolution of disputes about price and non-price aspects of access between the relevant parties.

The 'form of regulation factors' guide the assessment of the form of regulation to apply to the electricity network service (that is, whether it is appropriately classified as a direct controlled network service, or a negotiated network service). This framework effectively implements the Expert Panel recommendations.

The first of these form of regulation factors assesses the presence and extent of any barriers to entry in a market for electricity network services. Many of the services provided by electricity networks can be characterised as natural monopolies and need to be regulated to ensure that consumers' interests are met.

Another factor that predisposes electricity networks towards natural monopoly status is the interdependent nature of network services. This means that it is usually more efficient to have one service provider provide an electricity network service to a given geographical area. Additionally it may be more efficient to have the same company provide other network services to the same geographical area.

The second and third form of regulation factors require that the Australian Energy Market Commission and the Australian Energy Regulator identify these interdependencies and network externalities as potential sources of market power.

The fourth form of regulation factor looks to consider the extent to which market power possessed by the owner, operator or controller of a transmission or distribution network by which services to be subject to regulation are provided is likely to be mitigated by countervailing market power possessed by the users of those services. This factor allows the Australian Energy Regulator or Australian Energy Market Commission to apply a lighter form of regulation to a network that is subject to this type of countervailing market power from a major user.

Another factor that may cause the Australian Energy Regulator or Australian Energy Market Commission to consider a lighter form of regulation, is the degree to which electricity network services and the power that they provide can be substituted for other products. For example, embedded generation installed at a customers premises may be economic for some classes of customers and therefore provide effective competition to electricity network operators. When available, natural gas may also compete with electricity for some or all of a customer's needs. The fifth and sixth form of regulation factors allow the Australian Energy Market Commission and Australian Energy Regulator to consider the presence and extent of substitutions for users to be provided with the particular service.

Finally, customers can only negotiate with service providers when they have adequate information, to determine whether or not payments required of them accurately reflect the efficient cost of providing the service. In a competitive market the efficient cost is revealed as competing providers seek to out-bid each other down to the point where they are covering their costs plus a normal profit. Where a business is a natural monopoly this does not occur and it can be difficult for consumers and regulators to access information from natural monopoly service providers. The final form of regulation factor allows the Australian Energy Regulator and Australian Energy Market Commission to consider the extent to which there is adequate information available to users, to enable them to negotiate with the service provider on an informed basis.

Revenue and Pricing Principles

A key feature of the amended National Electricity Law is the inclusion of six principles that guide the development of the framework for the regulation of electricity networks. These revenue and pricing principles will guide the Australian Energy Market Commission in making the rules governing the regulation of electricity transmission and distribution networks, and the Australian Energy Regulator when making regulatory transmission or distribution determinations.

These principles are fundamental to ensuring that the Ministerial Council on Energy's intention of enhancing efficiency in the National Electricity Market is achieved. To provide certainty to the industry and consumers, this Bill will apply the principles through the National Electricity Law rather than the National Electricity Rules, where their predecessors were found. The aim of the pricing principles is to maintain a framework for efficient network investment irrespective of the evolution of the regulatory regime (via changes to the National Electricity Rules) and the industry. It is proposed that these revenue and pricing principles will be replicated in the new National Gas Law to ensure a consistent framework for energy access pricing.

The first of these principles requires that a regulated network provider should be provided with a reasonable opportunity to recover at least the efficient costs the operator incurs in providing services, complying with a regulatory obligation or requirement or making a regulatory payment. At least efficient cost recovery is vital if service providers are to maintain their electricity networks in order to meet community expectations of the service levels they receive, and to undertake further investment to serve Australia's growing population.

The Bill also defines the meaning of a regulatory obligation or instrument and the meaning of a regulatory payment.

A regulatory obligation or requirement is defined to cover obligations or a requirement imposed on network service providers through participating jurisdictional instruments and also recognises obligations and requirements imposed by the National Electricity Law and Rules. The National Electricity Law reflects the policy intent that an order of compensation under an Act or an obligation or requirement to pay a fine, penalty or compensation for breaches of service standard or reliability standards is not included as a regulatory obligation or requirement.

A regulatory payment is defined as a sum that a regulated network service provider has been required or allowed to make to a network user or end user for a breach of a reliability or service standards, such as guaranteed service level payments, to the extent they are efficient.

Equally vital to ensure that Australia's current and future electricity needs are met, is that regulators can provide service providers with incentives to maintain and improve the services.

The second principle requires that service providers should be provided with effective incentives in order to promote the economically efficient investment in and provision and use of network services.

The third principle requires that regulators have regard to the regulatory asset base adopted in any previous determination conducted by the Australian Energy Regulator or jurisdictional regulators, or as specified in the rules. This principle is important to ensure that the regulatory framework recognises the long-lived nature of electricity network assets by recognising how sunk assets have been considered previously in rules or previous regulatory determinations.

It is also important that risks are appropriately compensated for when determining efficient revenues and prices. The fourth principle ensures this by requiring that prices and charges for the provision of regulated network services, allow for a return commensurate with the regulatory and commercial risks involved in providing the service to which that price or charge relates.

The fifth principle explicitly requires the Australian Energy Regulator to have regard to the economic costs and risks of the potential for under and over investment by a regulated network service provider in its network. The cost of under investment is lower service standards for consumers and ultimately higher costs to correct these, while the cost of overinvestment is unnecessarily high prices to consumers. This principle will ensure that Australian consumers receive the level of service that they expect and at the right price.

The final principle requires that regard be had to the economic costs and risks of the potential for under and over utilisation of a service provider's network. This principle guides decision makers to consider the efficiency of the usage of existing assets and balance this against the principle of over and under investment. Utilisation is another important indicator of whether the network is operating efficiently. Underutilisation over a previous regulatory control period might indicate that prices have been set too high. It may also be an indicator of over investment, which can also result in high prices. Either way it can have adverse consequences on consumers. Conversely, over utilisation is an indicator of under investment which can result in poor service standards.

Decision-making framework

A key aspect of the regulatory framework established by this Bill is the recognition of a "fit for purpose" decision making framework as recommended by the Expert Panel.

The National Electricity Law reflects the Ministerial Council on Energy policy intention to establish a "fit for purpose" decision-making model by allowing the rules to set out the decision making framework and determine the level of discretion the Australian Energy Regulator has in dealing with the different aspects of a regulatory determination.

The "fit for purpose" framework acknowledges that, for the purposes of making a regulatory distribution determination, there is often such a range of revenue and price components (and inter-relationships between them), that it may be appropriate in some cases for the regulator to be required to accept a reasonable proposal put forward by a service provider. In other cases, it will be appropriate to leave the regulator with the discretion to determine an outcome, or even to require the regulator apply a more specific test to different elements of the proposal. Under this model, the regulator is guided in its decision-making by the express provisions in the National Electricity Rules which govern the available level of discretion, along with the National Electricity Objective and the revenue and pricing principles which apply by virtue of the National Electricity Law.

When applied as part of future changes to the National Electricity Rules, the "fit for purpose" framework will provide an appropriate degree of flexibility by allowing the regulatory framework to evolve and adapt models of regulatory decision making according to the degree of regulatory risk or certainty desired by the market.

I will shortly outline the framework established in the initial electricity distribution revenue and pricing rules.

Information Gathering Powers

This Bill introduces substantial amendments to the Australian Energy Regulator's information gathering powers under the National Electricity Law, designed to address ongoing issues of information asymmetry between regulated business and the regulator recognised by the Expert Panel.

The amendments enable the Australian Energy Regulator to obtain adequate information from industry to set efficient prices for energy services without placing an unnecessarily heavy administrative burden on industry whilst supporting competition in the energy market place and protecting commercially sensitive information.

Information on costs incurred in supplying network services is a critical input into the regulatory process and is an essential starting

point for determining regulated prices for services supplied in such a market.

The Bill replaces section 28 of the National Electricity Law and introduces new Divisions 4 and 5 to Part 3 of the National Electricity Law. These powers will be replicated in the National Gas Law to provide a consistent information gathering regime across electricity and gas, fully implementing the concerns of the Expert Panel about the necessity of information provision in gas and electricity regulation.

The Bill makes the National Electricity Law search warrant provisions consistent with current criminal law policy by strengthening the suitability criteria for authorised people and introducing identity cards. The Bill revises the National Electricity Law by removing the concept of a 'possible breach' and strengthening individuals' rights in enforcement operations by the Australian Energy Regulator. Search warrants are a tool for breaches of the legislative regime rather than economic regulation.

The National Electricity Law retains the Australian Energy Regulator's ability to obtain information or documents from any person where such information or documents are required by the Australian Energy Regulator for the purpose of performing or exercising any of its functions and powers. The Australian Energy Regulator's information gathering powers under this provision extend to existing information. However, persons are not required to provide information or documents pursuant to such a notice where they have a reasonable excuse for not doing so, such as that the person is not capable of complying with the notice. Information that is the subject to legal professional privilege is also protected from disclosure under such a notice.

The National Electricity Law also extends the Australian Energy Regulator's information gathering powers. The Bill creates the concepts of a 'general regulatory information order' and a 'regulatory information notice', and outlines the processes by which these instruments may be used by the Australian Energy Regulator.

A general regulatory information order is an order made by the Australian Energy Regulator that requires each regulated network service provider of a specified class, or each related provider of a specified class, to provide the information specified in the order and to prepare, maintain or keep information described in the notice in a manner specified in the order. A regulatory information notice is a notice prepared and served by the Australian Energy Regulator that requires the regulated network service provider, or a related provider, named in the notice to provide the information specified in the notice and to prepare, maintain or keep information described in the notice in a manner and form specified in the notice.

The Australian Energy Regulator can only serve a regulatory information notice or make a general regulatory information order if it considers it reasonably necessary for the performance or exercise of its functions. In considering whether it is reasonably necessary, the Australian Energy Regulator must have regard to the matters to be addressed in the service of the regulatory information notice or the making of the general regulatory information order, and the likely costs that may be incurred by an efficient network service provider or efficient related provider in complying with the notice or order. The Australian Energy Regulator must also exercise its powers under this section in a manner that will or is likely to contribute to the achievement of the national electricity objective.

A key component of these reforms is to extend the Australian Energy Regulator's information gathering powers to parties related to the service provider. This mechanism is designed to ensure that the Australian Energy Regulator has sufficient information to perform its functions and to discourage service providers from using corporate structures to avoid disclosure of information to the regulator, without allowing the Australian Energy Regulator to unduly interfere in competitive commercial arrangements.

The National Electricity Law requires the Australian Energy Regulator to consider additional matters in considering whether it is reasonably necessary to serve a regulatory information notice or make a general regulatory information order for related providers. One of the matters the Australian Energy Regulator is required to consider is whether the service provider is able to provide the required information rather than imposing an obligation on a related provider. The Australian Energy Regulator is also required to consider the extent to which the services provided by the related provider to the service provider are provided on a genuinely competitive basis.

The National Electricity Law clarifies the functions upon which the general regulatory information order and regulatory information notice powers extend. A regulatory information instrument must not be served solely for the Australian Energy Regulator's enforcement functions, appeals or collecting information for the preparation of a service provider performance report. Outside of these areas, the tests for issuing a regulatory information instrument are sufficient to ensure these powers do not create an unnecessary regulatory burden.

The National Electricity Law also recognises that there are certain circumstances where the Australian Energy Regulator needs to issue an urgent regulatory information notice. In such circumstances, the Australian Energy Regulator is required to identify that the notice is an urgent regulatory information notice and given reasons as to why the regulatory information notice is an urgent notice.

In instances where there is non-compliance with a regulatory information instrument, either a general regulatory information order or a regulatory information notice, the National Electricity Law gives the Australian Energy Regulator the ability to make certain assumptions in instances where the regulated network service provider or related provider does not provide the information to the Australian Energy Regulator in accordance with the applicable regulatory information instrument or provides information that is insufficient.

These instruments are intended to clearly set out the information requirements on service providers to report annually and at a revenue reset. By creating clear obligations, regulators, users, related parties and network service providers will be able to more clearly ascertain compliance with the law and the efficiency of prices for services. As well, the framework set out in the National Electricity Law should help to avoid information being collected in several different ways under different parts of the National Electricity Rules.

These amendments will require the Australian Energy Regulator to take into account the comments received, including the likely costs of compliance, before issuing a regulatory information notice. Consultation is intended to ensure the Australian Energy Regulator does not exercise its powers without regard to why it requires the information and taking into account the regulatory burden that may be imposed by the request for information.

Disclosure of confidential information

This Bill also establishes a comprehensive framework covering the circumstances were the Australian Energy Regulator is authorised to disclose confidential information. The Trade Practices Act generally requires the Australian Energy Regulator keep information confidential but allows the National Electricity Law and National Gas Law to specify how and when the Australian Energy Regulator may disclose confidential information. In the regulatory framework for energy, while there is a legitimate need to protect confidential information particularly that relating to businesses in competitive parts of the market, there is also a need to disclose much of a network service provider's information to the public to allow adequate scrutiny of its costs.

Accordingly, the Australian Energy Regulator is able to disclose confidential information with consent, where aggregated, for court proceedings or to accord natural justice. Additionally, where none of the previous options apply or are appropriate, the Australian Energy Regulator is able to disclose information where it would not cause detriment or if the public benefit of disclosing outweighs the detriment. The Australian Energy Regulator must give affected parties 5 business days to comment on such a disclosure and if submissions are received, must issue a further disclosure notice and wait a further 5 business days before disclosure. These decisions are also subject to merits review in the Australian Competition Tribunal.

Performance Reporting

This Bill allows the Australian Energy Regulator to publish performance reports on the financial and operational performance of network service providers. This is a key aspect of transparency for both distribution and transmission network service providers and will be of great benefit to users and consumers. Performance reporting on regulated services is an important element of the regulatory framework as it allows the Australian Energy Regulator to consider whether the network service providers are complying with the regulatory determinations, and to promote competition by comparison for monopoly service providers.

In preparing a report on the financial and operational performance of a network service provider, the National Electricity Law provides that the Australian Energy Regulator can only prepare a report in a manner that will, or is likely to, contribute to the achievement of the National Electricity Objective. The National Electricity Law also provides that the report prepared by the Australian Energy Regulator can include performance against network service standards, customer service standards, and

profitability of the regulated services. The report may also cover other performance of network service providers directly related to the economic regulatory functions of the Australian Energy Regulator. The purpose of these requirements is to provide the regulator and users and consumers with information about how the regulated network service provider is performing more broadly to ensure it can deliver reliable and efficient network services.

The National Electricity Law also requires the Australian Energy Regulator, before preparing a performance report under the law to consult with persons specified in the Rules and in accordance with the consultation process outlined in the Rules. The initial rules require the Australian Energy Regulator to consult with service providers, associations representing network service providers, and the public generally in order to determine the appropriate priorities and objectives to be addressed in the preparation of a performance report. In preparing the performance report, the Australian Energy Regulator is also required to consult with jurisdictional safety and technical regulators to avoid unnecessary duplication.

The Rules also provide the service provider with an opportunity, at least 30 business days before the publication of the report to, submit information and make submissions relevant to the subject matter of the report, and the service provider must be given an opportunity to comment on material of a factual nature to be included in the report. This provides an opportunity for affected stakeholders to be consulted while at the same time encouraging transparency and insight into a network service provider's performance.

Performance reporting is already a major part of the distribution regulatory regime in South Australia and it will be an important addition to the national framework. This provision will be repeated for gas in the National Gas Law.

The Rule Change Process

The Australian Energy Market Commission has been responsible for developing the National Electricity Rules since July 2005. This process has been successful and has resulted in important developments such as the transmission pricing rule and reform of regional boundaries. As with any new process, over the last two years some concerns have been raised about the workability of the current rule change process.

This Bill will address these workability concerns and assist the efficient operation of the rule change process. It was always intended that the Australian Energy Market Commission, although not being able to initiate rule changes itself, would be able to solve the issues or problems raised by a rule change proposal by implementing a solution which it considers best contributes to the achievement of the national electricity objective. Amendments in this Bill make that power clear.

The Australian Energy Market Commission will be given a greater ability to manage its workload including the power to consolidate multiple rule change proposals and deal with them as one proposal where it considers this to be efficient. The Australian Energy Market Commission will also be given longer to prepare its draft and final rule determinations and will be able to prospectively extend timelines for complex matters. The Australian Energy Market Commission will also be able to stop the clock on a rule change proposal while it is requesting additional information from a proponent.

This Bill will introduce a new fast track procedure that will allow the Australian Energy Market Commission to shorten the time required to make a rule, from 26 weeks to 17 weeks, when the rule change proposal has been effectively consulted on by National Electricity Market Management Company, the Australian Energy Regulator or the Reliability Panel. Fast tracking is designed to prevent duplication of consultation processes and to ensure that rule changes are processed efficiently.

While the Bill introduces the power to levy fees for rule change applications, it has been decided not to levy any such fees in the initial Regulations. This recognises the public interest in an open and accessible rule change process but allows further action should the revised process lead to a large number of vexatious applications.

These changes will also be implemented in the National Gas Law.

Merits Review

This package will introduce a mechanism for limited merits review by the Australian Competition Tribunal of specified regulatory decisions under the National Electricity Law. This merits review model will be mirrored in the National Gas Law to ensure consistent regulation of electricity and gas.

These amendments will allow a range of affected parties, including; network service providers, users and consumer associations, to seek review of the primary transmission and distribution determinations made by the Australian Energy Regulator (which apply for particular regulatory periods, usually 5 years). Regulations under this Act may prescribe other decisions of the Australian Energy Regulator under the Rules to be decisions subject to merits review, and it is intended that pass through applications during a regulatory period under the Rules will be so prescribed. No others decisions are currently intended to be included in the initial Regulations.

Merits review will only be available if the original decision contained errors of fact, if the original decision maker's discretion was incorrectly exercised, or if their decision was unreasonable, having regard to all the circumstances.

An applicant for merits review will need to seek leave from the Tribunal to bring an action for review and, amongst other things, will need to meet a materiality threshold. The Tribunal must be satisfied that there is a serious issue to be heard. In addition, for revenue-related errors, the amount at issue as a result of all of the alleged grounds of review must exceed the lesser of $5 million or 2 percent of average annual regulated revenue. An application for leave setting out the grounds of review must be made within 15 business days of a reviewable decision being published.

There will be a relatively wide scope for persons and groups to intervene in merits review proceedings, once commenced. Persons with a sufficient interest in the original decision are able to intervene, as well as jurisdictions, and user and consumer associations and interest groups with the leave of the Tribunal. Specific provision is made for the intervention of user and consumer associations and interest groups to overcome legal arguments that regulatory decisions are not sufficiently connected to their concerns or members.

The Tribunal will be able to affirm or vary the original decision, or set the decision aside and either substitute a new decision or remit the matter to the Australian Energy Regulator for reconsideration.

Consistent with the current gas regime and the desire to make the original decision making process meaningful, arguments to make out a ground of review must be based upon submissions made previously to the Australian Energy Regulator. The Australian Energy Regulator is also able to raise related and consequential matters in a review to ensure that the Tribunal takes account of broader issues affecting the decision.

Access Disputes

This legislation introduces a new procedure for disputes relating to access, and these provisions will be common with the National Gas Law. Under the new Part 10, a dispute occurs when a user or prospective user is unable to agree with an electricity network service provider about one or more aspects of access to an electricity network service that are specified by the Rules to be an aspect about which there can be an access dispute. The initial distribution rules will specify price and non-price aspects of access to a distribution network as aspects about which there can be an access dispute.

It is not proposed, however, to so specify aspects of access to transmission networks. Transmission access disputes will therefore continue to be subject to the dispute resolution framework in Chapter 6A of the National Electricity Rules.

These amendments will allow the Australian Energy Regulator to act as arbitrator between parties to an access dispute. They will establish the Australian Energy Regulator's powers and make their access determinations binding on the parties to an access dispute. This access dispute framework is consistent with the Competition Principles Agreement and Parts IIIA and XIC of the Commonwealth *Trade Practices Act*.

Under the new process the Australian Energy Regulator will be required to terminate access disputes where it is clear that the service sought in the dispute is capable of being provided on a genuinely competitive basis. The Bill also ensures that existing contractual rights are protected in access disputes and that, by obliging the Australian Energy Regulator to take into account the revenue and pricing principles, network service providers are appropriately compensated for providing access.

Other elements of access

The Bill also establishes in the National Electricity Law the fundamental obligation on network service providers to comply with the distribution and transmission determinations made by the Australian Energy Regulator. This recognises the fundamental importance of the determinations in the regime. Additionally, networks and other users will be prohibited from engaging in conduct for the purpose of preventing and hindering access to a network in a similar way to section 44ZZ of the *Trade Practices Act* and section 13 of the Gas Pipelines Access Law. The changes will

assist the National Electricity Law and Rules to be an effective access regime under the *Trade Practices Act* and accordingly provide immunity from inconsistent regulation under Part IIIA of the *Trade Practices Act.*

Enforcement guidelines

In response to several significant power system incidents, in October 2005 the Ministerial Council on Energy directed the Australian Energy Market Commission to undertake a review into the enforcement of and compliance with technical standards under the National Electricity Rules.

Following an extensive consultation process, in September 2006 the Australian Energy Market Commission released its Final Report making a number of recommendations about compliance with, and enforcement of, technical standards relating to electricity generators. Its recommendations focused on improvements to the processes and procedures for compliance monitoring, notification and rectification of technical standards. It also recommended that the Ministerial Council on Energy should propose a rule change to give effect to those recommendations.

The National Generators Forum in consultation with the Australian Energy Regulator and National Electricity Market Management Company is developing rule changes relating to generator technical standards which resulted from the Australian Energy Market Commission review.

The Ministerial Council on Energy, in its communiqué of May 2007 noted this work and commented that it was appropriate and consistent with the overall market governance model for the National Generator's Forum, in consultation with National Electricity Market Management Company and the Australian Energy Regulator, to initiate a rule change proposal based on the Australian Energy Market Commission recommendations through the rule change process.

To ensure that the proposed rule changes work consistently with the governance principles under the National Electricity Law, this Bill introduces some important amendments which will give effect to the compliance and enforcement regime of the Australian Energy Regulator. The National Electricity Law will include compliance programs as a factor for a Court to consider when determining a penalty level. In addition, a provision will be inserted into the National Electricity Law providing that the Australian Energy Regulator, with respect to its enforcement functions, may publish guidelines specifying matters to which it will have regard in deciding whether to issue an infringement notice or institute proceedings with respect to a breach of the National Electricity Law or Rules. These amendments to the National Electricity Law are an essential addition to ensure that the legislative framework appropriately provides the framework for compliance with the Law and Rules, an effective enforcement and monitoring regime, and provides the appropriate certainty for market participants on how the Australian Energy Regulator will perform its enforcement functions and powers.

National Electricity Rules

The amendment to the National Electricity Law is accompanied by amendments to Chapter 6 of the National Electricity Rules, which guide the Australian Energy Regulator in making revenue and pricing determinations for distribution services. This legislation allows initial amendments to the rules to be made by ministerial instrument to achieve a national framework for the economic regulation of distribution. After the enactment of the initial rules, the Australian Energy Market Commission will be able to amend the distribution rules through the rule change process. The Australian Energy Regulator will also become the regulator for the purposes of regulating electricity distribution networks and will be guided by the National Electricity Law and Chapter 6 in performing this function. It is noted that the new Chapter 6 distribution revenue and pricing rules will be applied by the Australian Energy Regulator and come into operation at the next regulatory resets for electricity distribution networks. The intent is not for that framework to apply to existing distribution regulatory determinations.

The principle change will be the replacement of the distribution pricing rules in Part D and E of Chapter 6 of the National Electricity Rules and the derogated jurisdictional arrangements, with nationally consistent distribution revenue and pricing rules. The new rules look to implement the following.

First, the amended rules implement the advice of the Expert Panel and in particular the revised pricing principles and framework for decisions on the form of regulation. In developing the rules, the Ministerial Council on Energy has been guided by the National Electricity Objective. Consistent with the objective, the distribution rules are designed to accommodate the "fit for purpose" decision-making model.

Second, the amended rules take into account the work and drafting style of the Australian Energy Market Commission in its revised transmission revenue and pricing rules. This is to ensure that the Ministerial Council on Energy's objective of creating a consistent regulatory framework, to the extent appropriate, is established for transmission and distribution regulation, while at the same time recognising fundamental differences between distribution and transmission networks.

Third, the amended rules build upon the existing distribution arrangements in each State and Territory to ensure unnecessary disruption and uncertainty is not created by the changes to the national framework required by the amended *Australian Energy Market Agreement*. To manage this, savings and transitional provisions are included to ensure appropriate transitioning from the existing regulatory framework to the new national framework.

The amendments to Chapter 6 of the rules have created a framework that balances the need to provide certainty to business and consumers with the challenges of bringing six varying regulatory regimes into one.

I will now outline some of the key elements of the new national electricity distribution revenue and pricing rules.

Classification of distribution services and the regulatory process

The rules set out a principles-based approach to determine the form of regulation and the control mechanisms used to determine revenues and prices, on a determination by determination basis. This will allow the Australian Energy Regulator to accommodate the wide range of jurisdictional arrangements across the National Electricity Market.

The rules provide for distribution services to be classified between standard control services – in which the Australian Energy Regulator will apply a building block approach to setting the revenue requirements, alternative control services—in which the Australian Energy Regulator can apply a "light-handed" form of price or revenue control, or the negotiate/arbitrate framework. In classifying these services, the Australian Energy Regulator is to have regard to how the distribution services were previously classified and whether there has been a change in circumstances, guided by the form of regulation factors, which would warrant a change in the classification of a distribution services. The regulatory framework for the treatment of negotiable distributions services, standard control services and alternative control services is provided for in the rules.

A two stage determination process that balances certainty and flexibility has been included in the rules. This commences with the ability for the Australian Energy Regulator to prepare and publish a Framework and Approach document in anticipation of every distribution determination. The aim of this document is to set out the form of price control to apply in a distribution determination, set out the classification of distribution services, tailor the application of incentive schemes to individual distribution business, and cover other appropriate regulatory matters. This element of the process will aid the network business to prepare the revenue application it is required to submit 13 months prior to the expiry of a distribution determination, and encourage stakeholder participation in the regulatory process.

Determining the revenue requirements

The rules provide for a framework upon which the Australian Energy Regulator is to determine the revenue requirements using a building block approach for standard control services.

The Australian Energy Regulator is appropriately guided by a "fit for purpose" framework in assessing the element of a service provider's regulatory proposal. For example, the rules set out the basis upon which an initial asset base is established for a regulated network service provider. Existing regulatory asset values for each distribution business are set out in the rules, and the rules also allow for a roll-forward approach. The rules also set out a framework to consider capital and operating expenditure requirements, which are key elements of a service provider's costs. The Australian Energy Regulator is guided by principles that enable it to determine whether to accept the forecasts proposed by a service provider.

The rules also provide a process upon which the Australian Energy Regulator determines the cost of capital. The final decision on the cost of capital for a distribution network provider is part of the final regulatory determination. However, the rules allow the Australian Energy Regulator to publish its views on industry-wide cost of capital values and methodology in a regulatory intent document. This framework creates a balance between creating

uniformity in the investment incentives of network service providers across the National Electricity Market while also recognising that these methodologies and values change as the market conditions change.

The rules also provide a mechanism for adjusting the regulatory determination through the recognition of pass through events. The intent of the pass through provisions is to recognise costs, whether positive or negative, that are outside of the service provider's control while protecting the incentive properties of the regulatory framework. The rules define certain pass through events but provide the regulator with the flexibility to specify additional events in its determination.

A key feature of the rules is the ability for the Australian Energy Regulator to develop incentive schemes around capital and operating expenditure efficiency, service standard efficiency and demand management. These schemes can be tailored to consider the unique circumstances of the network service provider during the Framework and Approach phase of the regulatory process. In developing the schemes, the Australian Energy Regulator is guided by principles including that it must be satisfied that the application of a scheme is likely to result in future benefits to customers sufficient to warrant the payment of any rewards to the service provider. The schemes are in addition to the minimum service standards and other guaranteed service level arrangements in place through other jurisdictional instruments.

Distribution pricing rules

The new rules also set out a distribution pricing framework which was developed having regard to the approach applied across jurisdictions.

While the pricing arrangements promote the setting of efficient prices, the rules will also contain a side constraint which limits the increase in distribution tariffs to the greater of CPI minus X plus two percent or two percent per annum for a class of customers. The X factor and side constraints together ensure appropriate smoothing of price or revenue increases or decreases.

The rules also set out process for the Australian Energy Regulator to annually approval a service provider's pricing proposal and ensure compliance with the distribution determination and other requirements of the rules.

Removing barriers to demand side response and distributed generation options

The new rules help deliver on the Council of Australian Governments' commitment to remove barriers to the efficient uptake of renewable and distributed generation.

Consistent with this commitment, the Ministerial Council on Energy, in developing the new rules actively sought independent expert opinion on potential barriers to distributed generation and demand side response. A consultation paper addressing these barriers was released in parallel with a draft of the new rules and public submissions on the report were considered as part of the new rules. The purpose of these changes is to ensure that the rules do not inadvertently discourage demand management and embedded generation options that benefit the market and consumers.

The new rules provide the appropriate balance in considering network and non-network options in meeting investment drivers as well as ensuring there are appropriate incentives for network businesses, to the extent it can, manage demand. Included in the new rules are provisions to ensure that home owners with solar PV units capture the benefits of their energy savings in reduced network charges and large customers who manage their demand to make lasting reductions will also be able to have their tariff allocation reassessed. Treatment of embedded generators is equalised with large generators by ensuring they are not charged to export electricity to the grid. The new rules include a Demand Management incentive mechanism to help address network operator incentives for adopting efficient non-network options. Efficiency incentives also now consider arrangements that reduce electricity lost in distribution networks.

The Ministerial Council on Energy is continuing to address barriers to the efficient uptake of renewable and distributed generation in its current work programs, including as part of the Ministerial Council on Energy's work stream that looks to create a national framework for electricity distribution network planning and connection arrangements and as part of the non-price distribution and retail legislative package. Addressing these issues will help to reduce greenhouse emissions in an economically efficient manner.

Reliability Panel

The Bill covers off the immunity of members of the Reliability Panel to ensure that it can continue to function effectively and fulfil its crucial role in the National Electricity Market. Any liability claim will instead lie with the Australian Energy Market Commission.

Australian Energy Market Commission officials assisting the Reliability Panel are already covered through the existing immunity provision in the National Electricity Law.

Savings and transitional provisions

To ensure a smooth transition to the new National Electricity Law and Rules, savings and transitional provisions are included in both. Additional savings and transitional provisions will also be included in the Regulations.

These provisions will enable existing distribution determinations to continue operating under the current rules until they expire. The existing jurisdictional ring fencing guidelines will be retained and will be transferred to the national framework under the non-price distribution and retail legislative package. The capital contributions framework will also be retained and dealt with through a separate work stream creating a national framework for electricity network planning, connection and connection charges.

The transitional provisions will also allow jurisdictional regulators to share information with the Australian Energy Regulator to enable them to administer existing determinations and facilitate them making future revenue determinations.

South Australian savings and transitional provisions

As I previously noted, the South Australian transitional provisions contained in the National Electricity Rules appropriately provide for the transition from the current regime to the national framework.

The first of the transitional arrangements will ensure that some aspects of the Essential Services Commission of South Australia's determination for the regulatory period 1 July 2005 to 30 June 2010 are reflected in the Australian Energy Regulator's first regulatory determination for the South Australian electricity distribution network. This will ensure that the South Australian distribution network is protected from being disadvantaged by the transition to the new regime.

Protection of South Australian consumers from sudden price rises is also important. As I noted previously, the distribution rules allows for the application of a 'side constraint' on tariffs in relation to the provision of standard control services. Transitional arrangements in South Australia will impose an additional $10 per annum limit on increases to the fixed supply charge component for small customer's electricity bills. This arrangement will remain in force for the entire 2010-2015 South Australian distribution determination. The transitional provision will also allow the Australian Energy Regulator to review the application of this additional side constraint prior to issuing its framework and approach paper for the 2015 regulatory reset.

Interpretation provisions

The Bill includes minor amendments to the schedule of interpretative provisions. This Schedule 2 to the new Law means the Law is subject to uniform interpretation in all participating jurisdictions and will be consistent with the National Gas Law.

Conclusion

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

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

The measure will be brought into operation by proclamation.

3—Definition

The "NEL" means the National Electricity Law (set out in the Schedule to the Act).

4—Amendment provisions

This clause is formal.

Part 2—Amendment of *National Electricity (South Australia) Act 1996* as part of the national scheme

5—Amendment of section 2 of the NEL—Definitions

This clause provides the definitions connected with the amendments to be made to the NEL, makes consequential amendments, and deletes the definitions that are no longer required.

6—Amendment of the NEL—New sections 2A to 2F inserted

A number of additional provisions will explain key concepts under the NEL.

For example, an access dispute will be a dispute between a network service user or prospective network service user and a network service provider about an aspect of access to an electricity network service specified by the Rules to be an aspect to which Part 10 applies.

Another provision will set out the form of regulation factors under the NEL, being—

(a) the presence and extent of any barriers to entry in a market for electricity network services;

(b) the presence and extent of any network externalities (that is, interdependencies) between an electricity network service provided by a network service provider and any other electricity network service provided by the network service provider;

(c) the presence and extent of any network externalities (that is, interdependencies) between an electricity network service provided by a network service provider and any other service provided by the network service provider in any other market;

(d) the extent to which any market power possessed by a network service provider is, or is likely to be, mitigated by any countervailing market power possessed by a network service user or prospective network service user;

(e) the presence and extent of any substitute, and the elasticity of demand, in a market for an electricity network service in which a network service provider provides that service;

(f) the presence and extent of any substitute for, and the elasticity of demand in a market for, electricity or gas (as the case may be);

(g) the extent to which there is information available to a prospective network service user or network service user, and whether that information is adequate, to enable the prospective network service user or network service user to negotiate on an informed basis with a network service provider for the provision of an electricity network service to them by the network service provider.

7—Amendment of section 6 of the NEL—Ministers of participating jurisdictions

This amendment deletes redundant provisions.

8—Amendment of the NEL—Section 7 substituted and new section 7A inserted

The NEL is to have a revised objective, being to promote efficient investment in, and efficient operation and use of, electricity for the long term interests of consumers of electricity with respect to—

(a) price, quality, safety, reliability and security of supply of electricity; and

(b) the reliability, safety and security of the national electricity system.

New section 7A will set out a set of revenue and pricing principles for the purposes of the NEL.

9—Amendment of section 8 of the NEL—MCE statements of policy principles

MCE policy principles will expressly apply in relation to making a Rule or conducting a review under section 45.

10—Amendment of the NEL—New Division heading inserted into Part 2

Part 2 of the NEL is to be divided into Divisions.

11—Amendment of section 11 of the NEL—Electricity market activities in this jurisdiction

Section 11 of the NEL is to be amended so that its application is expressed to be to a generating system connected to the interconnected national electricity system, as it exists in the particular jurisdiction.

12—Amendment of the NEL—New Division 2 inserted into Part 2

Specific compliance obligations are to be placed on operators, with civil penalty provisions.

13—Amendment of section 15 of the NEL—Functions and powers of AER

The AER is to be vested with a number of additional functions under the NEL. Express provision with respect to the AER having the power to do all things necessary or convenient to be done in connection with the performance of its functions is to be included in the NEL.

14—Amendment of the NEL—New section 16 substituted

Section 16 of the NEL must be revised to take into account the national electricity objective and the revenue and pricing principles.

15—Amendment of the NEL—New section 18 substituted

Section 44AAF of the *Trade Practices Act 1974* will have effect as if it formed part of the NEL.

16—Amendment of the NEL—New heading to Division 2 of Part 3

Division 2 of Part 3 is now to be specifically relevant to search warrants.

17—Amendment of section 19 of the NEL—Definitions

The term ***relevant provision*** is to apply to any provision of the NEL, the Regulations or the Rules.

18—Amendment of the NEL—New section 20 substituted and new sections 20A and 20B inserted

An authorised person will be required to comply with any direction of the AER in exercising powers or functions as an authorised person. An authorised person will have an identity card issued by the AER.

19—Amendment of section 21 of the NEL—Search warrant

An application for a search warrant may be made if an authorised person reasonably suspects that there may have been a breach of a relevant provision and there is or may be a thing or things of a particular kind connected with the breach on or in the relevant place.

20—Amendment of the NEL—deletion and substitution of sections 22 and 23

The provisions relating to access to premises under the terms of a warrant are to be clarified and revised.

21—Amendment of section 24 of the NEL—Copies of seized documents

These are clarifying amendments.

22—Amendment of NEL—New section 25 substituted

A document or other thing seized by an authorised person under a warrant must always be given to the AER.

23—Amendment of section 26 of the NEL—Extension of period of retention of documents or things seized

24—Amendment of section 26 of the NEL—Obstruction of person authorised to enter

These are consequential amendments.

25—Amendment of the NEL—New Divisions 3 to 7 of Part 3 inserted

The information gathering powers of the AER are to be revised for the purposes of the NEL.

26—Amendment of the NEL—New section 31 substituted

Section 24 of the *Australian Energy Market Commission Establishment Act 2004* is to apply as if it formed part of the NEL.

27—Amendment of section 32 of the NEL—AEMC must have regard to national electricity objective

This is a consequential amendment.

28—Amendment of section 34 of the NEL—Rule making powers

This amendment will make it clear that the AEMC may make Rules for or with respect to any matter or thing contemplated by the NEL, or necessary or expedient for the purposes of the NEL. It is also to be made clear that certain matters in guidelines or other documents adopted under the Rules may be left to be determined by the AER, the AEMC, NEMMCO or a jurisdictional regulator.

29—Amendment of the NEL—New sections 35 and 36 substituted

Sections 35 and 36 are to be revised. Certain Rules will not be able to be made without the consent of the MCE. A Rule may not provide for a criminal penalty or civil penalty for a breach of a provision of a Rule.

30—Amendment of section 37 of the NEL—Documents etc applied, adopted and incorporated by Rules to be publicly available

Section 37(2) of the NEL is to be revised so that it sets out 2 methods of making a Rule publicly available.

31—Amendment of the NEL—deletion of section 40

The definition in section 40 of the NEL is now to be found in section 2 of the NEL.

32—Amendment of section 41 of the NEL—MCE directions

A direction from the MCE to the AEMC for the conduct of a review may extend to—

(a) any matter relating to any other market for electricity; or

(b) the effectiveness of competition in a market for electricity for the purpose of giving advice about whether to retain, remove or reintroduce price controls on prices for retail electricity services.

33—Amendment of section 42 of the NEL—Terms of reference

The MCE will now be able to—

(a) require the AEMC to have specified objectives in the conduct of a MCE directed review which need not be limited by the national electricity objective;

(b) require the AEMC to assess a particular matter in relation to services provided in a market for electricity against specified criteria or a specified methodology;

(c) require the AEMC—

(i) to assess a particular matter in relation to services provided in a market for electricity; and

(ii) to develop appropriate and relevant criteria, or an appropriate and relevant methodology, for the purpose of the required assessment.

34—Amendment of section 45 of the NEL—Reviews by AEMC

This amendment makes it clear that publication of a report must take into account the operation of section 48 of the NEL.

35—Amendment of section 46 of the NEL—AEMC must publish and make available up to date versions of Rules

This amendment makes it clear that the Rules must be maintained on the AEMC website.

36—Amendment of section 47 of the NEL—Fees

This amendment makes it clear that a fee may be calculated in accordance with a specified formula or methodology. A fee may extend to a service under the Regulations.

37—Amendment of section 48 of the NEL—Confidentiality of information

This is a consequential amendment.

38—Amendment of section 49 of the NEL—Functions of NEMMCO in respect of national electricity market

This amendment inserts a note to refer to the fact that NEMMCO will also have responsibilities with respect to the new Consumer Advocacy Panel.

39—Amendment of the NEL—New Parts 5A and 5B inserted

These new provisions provide for the vesting of functions and necessary or convenient powers.

40—Amendment of section 58 of the NEL—Definitions

The list of civil penalty provisions needs to be revised.

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

This is a drafting matter to provide consistency with section 61(1) of the NEL.

42—Amendment of section 62 of the NEL—Additional Court orders

The note is no longer appropriate.

43—Amendment of section 64 of the NEL—Matters for which there must be regard in determining amount of civil penalty

In determining a civil penalty amount, it will now also be expressly relevant to have regard to whether the service provider had in place a compliance program approved by the AER or required under the Rules, and the extent of compliance with such a program.

44—Amendment of the NEL—New Division 2A of Part 6 inserted

The Commercial Arbitration Acts of each jurisdiction are to apply to proceedings involving a Rule dispute and decision or determination of a Dispute resolution panel in accordance with new section 69A.

45—Amendment of the NEL—New section 71 substituted

These amendments make clearer provision with respect to appeals from decisions or determinations of a Dispute resolution panel, being appeals on questions of law.

46—Amendment of the NEL—New Divisions 3A and 3B of Part 6 inserted

These amendments introduce a scheme for merits review and other non-judicial review.

47—Amendment of section 74 of the NEL—Power to serve a notice

The AER will be required to serve an infringement notice within 12 months after the date on which the AER forms a belief that there has been a breach of a civil penalty provision.

48—Amendment of section 81 of the NEL—Payment expiates breach of civil penalty provision

The acceptance of the infringement penalty by the AER should determine the matter.

49—Amendment of the NEL—Deletion of section 84

50—Amendment of section 85 of the NEL—Offences and breaches by corporations

51—Amendment of section 86 of the NEL—Proceedings for breaches of certain provisions in relation to actions of officers and employees of relevant participants

52—Amendment of the NEL—New Subdivision heading inserted into Division 1 of Part 7

These are consequential amendments.

53—Amendment of section 87 of the NEL—Definitions

Various definitions must be revised or deleted for the purposes of Part 7.

54—Amendment of the NEL—New Subdivision 2 of Division 1 of Part 7 inserted

The form of regulation factors and the revenue and pricing principles will be relevant to certain rule-making functions of the AEMC.

55—Amendment of the NEL—New heading to Division 2 of Part 7

56—Amendment of the NEL—New section 90A inserted

It is necessary for the Minister to assume additional rule-making functions.

57—Amendment of section 91 of the NEL—Initiation of making of a Rule

This amendment clarifies the operation of section 91(2) of the NEL.

58—Amendment of the NEL—New sections 91A and 91B inserted

The AEMC will be able to make a rule that is different from a market initiated Rule if the AEMC is satisfied that its proposed rule will or is more likely to better contribute to the achievement of the national electricity objective.

59—Amendment of section 92 of the NEL—Contents of requests for Rules

A request for the making of a Rule may give rise to the requirement to pay an application fee prescribed by the Regulations.

60—Amendment of the NEL—New section 92A inserted

The AEMC will be able to waive an application fee under section 92.

61—Amendment of the NEL—New sections 93 and 94 substituted and new section 94A inserted

The powers of the AEMC to consolidate requests for rules are to be clarified. The processes surrounding the consideration of a request for a rule are to be revised to some extent. The AEMC will be given express power to request additional information from a person who requests the making of a rule.

62—Amendment of section 95 of the NEL—Notice of proposed Rule

If the AEMC decides to act on a request for a rule to be made, or forms an intention to make an AEMC initiated rule, the AEMC will publish notice of the request or intention and a draft of the proposed rule.

63—Amendment of section 96 of the NEL—Publication of non-controversial or urgent final Rule determination

The period for acting under section 96(1) is to be extended from 4 weeks to 6 weeks.

64—Amendment of the NEL—New section 96A inserted

Certain requests for rules will be able to be dealt with expeditiously.

65—Amendment of section 99 of the NEL—Draft Rule determinations

A draft rule determination will be made within 10 weeks after the date of the notice under section 95, or 5 weeks in the case of a rule under section 96A.

66—Amendment of section 101 of the NEL—Pre-final Rule determination hearings

It will be made clear that the AEMC may decide to hold a hearing in relation to a draft rule determination on its own initiative.

67—Amendment of section 102 of the NEL—Final Rule determinations

The AEMC will make a final rule determination and publish it within 6 weeks after the period for submissions or comments comes to an end.

68—Amendment of the NEL—New section 102A inserted

Provision must be made for cases where the AEMC decides to make a more preferred rule.

69—Amendment of section 107 of the NEL—Extensions of periods of time in Rule making procedure

The AEMC will be able to extend a period of time in necessary cases (rather than relying on a "public interest" test).

70—Amendment of the NEL—New section 107A inserted

Further consultation may occur in relation to a proposed rule change and accordingly specified time-periods may be extended.

71—Amendment of section 108 of the NEL—AEMC may publish written submissions and comments unless confidential

This is a consequential amendment.

72—Amendment of the NEL—New section 108A inserted

The AEMC will be required to prepare a report if it does not make a final rule determination within 12 months after publication of the relevant notice under section 95.

73—Amendment of section 119 of the NEL—Immunity of NEMMCO and network service providers

74—Amendment of section 120 of the NEL—Immunity in relation to failure to supply electricity

These are consequential amendments.

75—Amendment of section of the NEL—New section 122 and new parts 10 and 11 inserted

It is necessary to include an immunity provision with respect to members of the Reliability Panel. A new Part relating to access disputes is also to be enacted. Other miscellaneous provisions are also to be inserted into the NEL.

76—Amendment of Schedule 1 to the NEL

The matters that may be the subject of the Rules are to be revised and expanded.

77—Amendment of Schedule 2 to the NEL—Clause 1
78—Amendment of Schedule 2 to the NEL—Clause 2
79—Amendment of Schedule 2 to the NEL—Clause 4
80—Amendment of Schedule 2 to the NEL—Clause 8
81—Amendment of Schedule 2 to the NEL—Clause 10
82—Amendment of Schedule 2 to the NEL—New Parts 6A and 6B of Schedule 2 inserted
83—Amendment of Schedule 2 to the NEL—Clause 39
84—Amendment of Schedule 2 to the NEL—Clause 41
85—Amendment of Schedule 2 to the NEL—Clause 42

These clauses enact additional provisions with respect to the interpretation and operation of the NEL.

86—Amendment of Schedule 3 to the NEL—Clause 1
87—Amendment of Schedule 3 to the NEL—New clause 4A inserted
88—Amendment of Schedule 3 to the NEL—New clauses 10A and 10B inserted
89—Amendment of Schedule 3 to the NEL—New clause 18 inserted

These are transitional provisions to be inserted into the NEL.

Part 3—Amendment of *National Electricity (South Australia) Act 1996* to make consequential amendments

90—Amendment of section 12—Specific regulation-making power

These amendments will allow the regulations to deal with matters of a transitional nature on account of amendments made from time to time to the new National Electricity Law.

91—Insertion of section 15

The provisions of clause 2 of Schedule 2 of the National Electricity Law relating to the conferral of functions and powers on Commonwealth bodies will extend to any such conferral effected by a provision of the Act or a regulation under the Act.

Part 4—Amendment of *National Electricity (South Australia) Act 1996* to address local issues

92—Insertion of Part 6

New Part 6 will facilitate the transfer of the economic regulation of electricity distribution to the Australian Energy Regulator under South Australian law. Under these provisions, ESCoSA will continue to administer the 2005-2010 Electricity Distribution Price Determination made in April 2005 and the AER will undertake responsibility to make future price determinations, subject to certain requirements set out in new section 18(5) and to the provisions of the relevant South Australian Pricing Order.

Mrs REDMOND secured the adjournment of the debate.

AUSTRALIAN ENERGY MARKET COMMISSION ESTABLISHMENT (CONSUMER ADVOCACY PANEL) AMENDMENT BILL

The Hon. P.F. CONLON (Minister for Energy) obtained leave and introduced a bill for an act to amend the Australian Energy Market Commission Establishment Act 2004. Read a first time.

The Hon. P.F. CONLON: 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 Bill I am introducing today significantly strengthens the consumer advocacy arrangements for both gas and electricity through the establishment of a consumer advocacy funding body to facilitate consumer engagement with industry. The legislative basis for the proposed consumer advocacy arrangements forms part of the national 'economic' legislative package of energy reforms, the first part of which is the *National Electricity (South Australia) (National Electricity Law—Miscellaneous Amendments) Amendment Bill 2007*.

The current national consumer advocacy arrangements were developed by the National Electricity Code Administrator in 2001 recognising that consumers should have the same rights to be involved in National Electricity Market decision-making as service providers in the market. On 4 November 2005, the Ministerial Council on Energy endorsed new arrangements to strengthen consumer advocacy across the Australian energy sector to provide a long-term framework for energy advocacy and to include gas advocacy in the energy funding mix. The new framework will also have a focus on small to medium end-users. The new arrangements will replace those currently in place under clause 8.10 of the National Electricity Rules.

The Ministerial Council on Energy decided that in order to provide for long-term energy advocacy arrangements which dealt with both gas and electricity and to enable clear and transparent governance and accountability mechanisms, the most appropriate mechanism to implement the new consumer advocacy arrangements would be through amendments to the *Australian Energy Market Commission Establishment Act 2004*.

This Bill establishes the Consumer Advocacy Panel (the Panel) as a constituent, but independent, part of the Australian Energy Market Commission. This will clearly recognise the Panel's role in the Australian energy market rather than just gas or electricity. While the Australian Energy Market Commission will be responsible for the administration of the new Consumer Advocacy Panel, to ensure the independence of the Panel is not compromised, the Bill clearly states the Panel's functions in allocating grants and commissioning research are not subject to the direction or control of the Australian Energy Market Commission or Ministerial Council on Energy.

The Panel is comprised of a Chair and four other Panel members, who will be responsible for grant allocation activities and commissioning research in both the gas and electricity sectors. Regulations to be made under the Bill will include criteria with which any grant funding must be consistent.

The Panel is empowered to identify areas of research which would benefit consumers. The Bill also provides for a cap on research projects that the Panel can initiate to a maximum of 25 per cent of the Panel's total annual grant budget. This is to ensure that the emphasis remains on using funds that are available for advocacy purposes.

The Panel is required to seek to promote the interests of all consumers of electricity or natural gas while paying particular regard

to benefiting small to medium consumers of electricity or natural gas. The proposed focus on small to medium consumers is not designed to limit consumer advocacy and research funding to a defined group, but recognises that small to medium consumers are less likely to have detailed knowledge of the operations of the energy market and are less likely to have the financial resources to support advocacy. Nevertheless, all energy consumer advocates will be eligible to be considered for funding. Small to medium consumers will be defined in the regulations as those that use less than 4GWh of electricity or 100TJ of natural gas per year.

The Ministerial Council on Energy will have responsibility for appointing the Chair and other Panel members. It will also approve the grant allocation guidelines. The Chair and other Panel members will be selected on the basis of their technical expertise and will need to be independent of sectoral representation. The Panel will be supported by an Executive Director and staff.

The Panel is required to publish a draft of its annual budget on its website for public comment. This provides an opportunity for the public to scrutinise the Panel's budget and to provide submissions. In addition, the Panel's budget is subject to approval by the Ministerial Council on Energy. The operations of the Panel, including all financial transactions on its behalf, will be subject to scrutiny by the Auditor-General as part of their auditing of the Australian Energy Market Commission.

The Australian Energy Market Commission will be responsible for grant funding and other costs that relate to gas advocacy and the National Electricity Market Management Company will be responsible for grant funding and other costs that relate to electricity advocacy. As market measures similar to that of the electricity market operator have yet to be developed for natural gas, the Australian Energy Market Commission will be the funding body for gas-related advocacy projects until such market operator mechanisms are developed.

The Panel will have the discretion in determining the appropriate ratio of funds, between electricity and gas, required to fulfil its administration needs as well as grant funding for joint benefit projects. It is anticipated that at the early stages of the new consumer advocacy arrangements that there will be a higher proportion of funds directed towards electricity advocacy rather than gas advocacy as the gas market has not yet reached the same level of maturity as the electricity market. Hence, the funds for joint benefit projects and the administrative costs of the Panel in the initial years may be more broadly funded by National Electricity Market Management Company market customer fees.

In summary, the Bill recognises that active participation by energy users and suppliers is important to the development of a more innovative and responsive energy market, achieving effective competition and maximising the benefits of market reform of the energy sector. The far-reaching consequences of the current program of reform underline the need for effective participation by both end users and suppliers. In particular, the growing convergence of electricity and gas markets will require effective and strategic consumer advocacy funding across the whole energy sector.

This Bill has the full support of all Commonwealth, State and Territory Ministers on the Ministerial Council on Energy.

I commend the *Australian Energy Market Commission Establishment (Consumer Advocacy Panel) Amendment Bill 2007* to Honourable Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

The measure will be brought into operation by proclamation.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Australian Energy Market Commission Establishment Act 2004*

4—Insertion of heading

The Act is now to be divided into distinct parts.

5—Amendment of section 3—Interpretation

These amendments relate to defined terms that are associated with the provisions of this measure. One definition to note is that ***small to medium customer*** will have the following meaning:

(a) of electricity—a consumer whose annual consumption of electricity does not exceed a level (expressed in megawatt hours) fixed by regulation for the purposes of this definition;

(b) of natural gas—a consumer whose annual consumption of natural gas does not exceed a level (expressed in terajoules) fixed by regulation for the purposes of this definition.

6—Insertion of heading

This is a consequential amendment.

7—Amendment of section 6—Functions

This amendment will make it clear that the AEMC will have other functions conferred under this or any other Act or law.

8—Substitution of section 18

This amendment will enact a provision that protects a Commissioner or a member of the staff of AEMC from personal liability for an Act or omission in good faith in acting or purporting to act under the Act. The relevant liability will lie instead against the AEMC.

9—Amendment of section 26—Accounts and audit

These amendments will make it expressly clear that the account established by AEMC under Part 4 will form part of the accounts of AEMC and will be subject to audit under section 26 of the Act.

10—Amendment of section 27—Annual report

The report of the Panel under Part 4 will be incorporated into the annual report of the AEMC.

11—Insertion of Parts 3, 4 and 5

This clause inserts two new Parts into the Act.

New section 28 will provide for the establishment of the *Consumer Advocacy Panel*.

New section 29 will set out the functions of the Panel. The functions will be principally focussed on supporting research and other projects that are intended to benefit consumers of electricity or natural gas (or both). A key function will be to consider and assess applications for grant funding. It will also be made clear that the Panel can itself initiate research projects to be funded under this scheme.

New section 30 will require the Panel to have regard to relative objectives set out in a National Energy Law and, when promoting the interests of all consumers of electricity or natural gas, to pay particular regard to benefiting small to medium customers.

New section 31 provides that, subject to the Act, the Panel is not subject to direction by the AEMC or the MCE in the performance of its functions.

New section 32 sets out the process by which members of the Panel will be appointed and the relevant qualifications for office.

New section 33 provides that a member of the Panel will be appointed—

(a) for a term (not exceeding 4 years) specified in the instrument of appointment; and

(b) on conditions (including conditions as to remuneration) specified in the instrument of appointment.

New Section 33(3) will ensure that a member of the Panel maintains a degree of independence from the energy industry.

New section 34 provides that a member of the Panel may be removed from office for—

(a) breach of, or non-compliance with, a condition of appointment; or

(b) misconduct; or

(c) failure or incapacity to carry out official functions satisfactorily.

New section 35 provides that the office of a Panel member will become vacant in specified circumstances.

New section 36 will allow the AEMC to make acting appointments associated with the membership of the Panel.

New section 37 provides that there is to be an Executive Director of the Panel. The Panel will also have such other staff as are reasonably necessary for the effective performance of its functions. The Executive Director and staff will be employed by the AEMC but the AEMC will not be able to give directions to staff so as to derogate from the independence of the Panel.

New section 38 relates to the meetings of the Panel.

New section 39 regulates any conflict of interest that may arise in a matter under consideration by the Panel.

New section 40 is an immunity provision.

New section 41 will require the Panel to prepare annual budgets for—

(a) administrative costs associated with the work of the Panel, including the remuneration of Panel members and the costs of employing its staff; and

(b) the allocation of available funding.

A budget will be subject to the approval of the MCE.

The Panel must, in preparing a budget—

(a) seek to maximise the amount of funding available for the allocation of grants by keeping administrative costs associated with the work of the Panel to a minimum; and

(b) ensure that money that is proposed to be made available for research projects initiated by the Panel does not exceed 25% of the Panel's total budget for funding projects; and

(c) clearly distinguish between—

(i) money that is proposed to be made available for research projects initiated by the Panel; and

(ii) money that is proposed to be made available for research projects put forward by other persons or bodies.

New section 42 provides for the responsibility of the AEMC and of NEMMCO for the administrative costs of the Panel.

New section 43 provides for the responsibility of the AEMC and of NEMMCO for meeting the grant funding requirements of the Panel.

New section 44 provides that the amounts to be provided by NEMMCO and the AEMC for the purposes of this Part are to be made available under an agreed scheme or, in default of an agreement, on a quarterly basis in advance.

New section 45 provides that the criteria for grant allocation are to be determined by the MCE and promulgated in the form of regulations under the Act. The Panel will then develop guidelines for grant allocation after consulting with the AEMC and other interested stakeholders.

New section 46 will facilitate the provision of grant funding for approved projects.

New section 47 will require the Panel to prepare an annual report.

New section 48 provides that the *Public Sector Management Act 1995* and the *State Procurement Act 2004* will not apply in connection with the operation of the Act.

12—Renumbering of section 28—Regulations

This is a consequential amendment.

Schedule 1—Transitional provisions

The schedule sets out various transitional provisions associated with the enactment of this measure.

Mrs REDMOND secured the adjournment of the debate.

HEALTH CARE BILL

The Hon. J.D. HILL (Minister for Health) obtained leave and introduced a bill for an act to provide for the administration of hospitals and other health services; to establish the health performance council and health advisory councils; to establish systems to support the provision of high quality health outcomes; to provide licensing systems for ambulance services and private hospitals; to make related amendments to other acts; to repeal the Ambulance Services Act 1992, the Hospital Act 1934 and the South Australian Health Commission Act 1976; and for other purposes. Read a first time.

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

That this bill be now read a second time.

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

Leave granted.

South Australia has a very good public health system staffed by very committed health professionals and administrative staff. It is also well supported by volunteers and communities. It consistently provides safe and effective health services for South Australia's population. However, it is governed by legislation developed over 30 years ago which is now in need of major reform if it is to respond positively to the contemporary and future healthcare demands.

In South Australia's Health Care Plan recently announced by the Government, there is recognition of the fact that consistent with national and international experiences, South Australia faces a number of increasing challenges to and demands on its health services. These include an ageing population, the increasing incidence of chronic diseases, changes in medical technology, ageing infrastructure, challenges in recruiting and retaining health professionals and higher expectations about the range, safety and quality of services.

These challenges to the health system will make it increasingly difficult for the public health system to meet the demands in a cost effective and equitable way unless reforms to the health system are instituted.

These are also some of the pressures and trends identified in the Generational Health Review (GHR) report which provided the impetus to begin the reform process needed for our public health system.

The GHR report guided the initial directions for structural reform of the public health system in South Australia. It clearly identified fragmentation and duplication of planning, funding and governance arrangements as major inhibitors to the development of a coordinated health system and a systemic approach to improvements in health outcomes for South Australians.

It recognised a need to shift the health system to a greater population focus, a primary health care approach and an accident and illness prevention focus.

Released in 2003, the Government's response to the GHR, First Steps Forward, established the initial reform process including the establishment of three metropolitan health boards:

- Central Northern Adelaide Health Service (CNAHS)
- Southern Adelaide Health Service (SAHS)
- Children Youth and Women's Health Service (CYWHS).

These Boards became responsible for the governance and delivery of health services in their regions and some statewide services, such as dental and drug and alcohol services.

Following on from these initial reforms, in July 2006, the seven country health regions were consolidated into one regional country body, Country Health SA. However, responsibility for the delivery of health services in their local communities remained with the then 44 local country hospital boards.

These governance changes were instrumental in setting the direction of the reforms. The *Health Care Bill 2007* before the House represents a critical opportunity to make more fundamental reforms to the governance arrangements for the public health system. Without these reforms South Australia risks having a public health system that is incapable of meeting the challenges identified in the GHR report and by other national and international bodies to provide a more sustainable public health system with better and more equitable health outcomes for its population.

This Bill provides a sound legislative framework to address the challenges ahead. It repeals the *South Australian Health Commission Act 1976*, the *Hospital Act 1934* and the *Ambulance Services Act 1992* and relevant functions have been incorporated into this Bill.

Greater coordination and less fragmentation of services and reduction of unnecessary duplication in the planning and delivery of service have been clearly identified by the GHR report as barriers to providing better services and health outcomes. To address these issues, the key governance changes under the Health Care Bill will enable the Chief Executive of the Department of Health to have the overall responsibility for and greater control over services provided by the public health system. This will enable the public health system to have a much better capacity to act as a coordinated, strategic and integrated system.

The Bill ensures that the Chief Executive (CE) of the Department of Health will be responsible to the Minister for Health for the management, administration and delivery of public sector health services in the State. The CE will have the powers to direct public health services and staff, and will be subject to direction from the Minister. However, consistent with what exists in the South Australian Health Commission Act, neither the Minister nor the CE will be able to give a direction concerning the clinical treatment of a particular person.

Two other well identified areas requiring reform to address the above challenges are to orientate health services toward a greater population focus and primary health care approach in the planning and delivery of services and to ensure that communities are engaged in planning health services.

These are reflected in the Bill's objectives and principles. They state that health services need to be part of an integrated system

supporting health promotion, disease, accident and illness prevention and the safe and effective management and treatment of disease, illness and injury.

They also state that service providers should engage with the community and volunteers in the planning and provision of health services and to encourage responsibility at individual and community levels for the promotion and development of healthy communities and individuals.

Importantly the Bill's principles recognise the health needs of Aboriginal people and the need for the health system to support values that respect their contemporary and historical cultures. This, I believe, is a very important principle and has been well supported by Aboriginal organisations. It orientates the health system far more strongly towards providing services that can work well with Aboriginal communities.

Another principle requires the planning and provision of health services to take into account the needs of people living and working in country and regional areas of the state. Again, this will support the delivery of services for people living and working in our country regions.

To simplify the current governance arrangements and consistent with providing greater accountability, the metropolitan boards will be dissolved. However the metropolitan regions as incorporated hospitals will remain but be managed by a chief executive officer accountable to the Chief Executive of the Department.

The capacity for providing independent advice is addressed in the Bill by the establishment of the Health Performance Council. The Council will ensure that the Minister can have access to high level advice independent from the Department and provides greater public accountability for health outcomes. Having a single body will also support a more consistent and strategic approach in providing advice.

The Health Performance Council will evaluate and report on the overall performance of the public health system in relation to agreed outcomes. It will produce an annual report to be tabled in the Parliament as well as a substantial four yearly report. This latter report will identify significant trends, health outcomes and future priorities of the health system. It will review the health system as a whole, including the public, private and non government systems involved in the provision of health services. The four yearly report will also be tabled in the Parliament and the Government will provide a response to the Parliament within 6 months of it being tabled.

The Health Performance Council will be made up of persons appointed by the Governor and these members will be persons who collectively have the knowledge, skills and experience necessary to enable the Health Performance Council to carry out its functions effectively. They will not be on the Council to necessarily represent the interests of particular groups but to be able when required, to provide sound advice about the needs of particular groups or on specific issues. To this effect the Government will ensure that we consult a wide range of bodies in order to determine the best possible membership, and the regulations will prescribe the key bodies that at a minimum must be consulted before making recommendations to the Governor.

As soon as the Bill is passed we will be seeking the views of a range of bodies regarding the membership of the Council.

To further support the capacity of the Department and the Minister to have access to independent advice, and in particular that of local communities, the Bill provides for the establishment of Health Advisory Councils (HACs) as either incorporated or unincorporated bodies. Where a HAC holds assets it will be an incorporated HAC governed by a constitution. Where it is an unincorporated body, it will be governed by a set of rules. The primary purpose of these Councils is to provide advice on health and service issues, planning and resource allocation, and advocate on behalf of the local community, population group, service or issue the Councils are established in relation to.

In the country, following extensive consultation with hospital Boards, we propose to establish the Country Health SA Board as an incorporated HAC, responsible for providing the Minister and the Department of Health with advice on health and service issues and planning and resource allocation for the whole of country South Australia.

The Government also intends to establish incorporated HACs to replace country hospital and health service Boards. These HACs will be incorporated unless they choose not to be. This will generally be the case when they do not manage assets. The establishment of HACs to replace country Boards will ensure the strong link between country communities and local health services is maintained. These HACs will undertake a range of advisory and advocacy functions, including the ability to raise funds if they choose and playing a significant role in processes for the selection of senior management of the local hospital or health centre.

The membership of the Country Health SA HAC and these local country HACs will, as a transition arrangement, be drawn from the existing Boards. HAC membership will be determined by the individual HACs constitution, and will generally consist of appointed and elected positions. Again, to support community involvement, the majority of members will be local community members elected at an annual general meeting. The Minister will have the capacity to appoint up to 3 members.

To suit the purposes of specific Councils to meet local needs or for example, the needs of bodies such the Country Ambulance Volunteers Health Advisory Council to be established under the proposed Act. The Minister will, subject to consultation, have power to vary the membership functions and powers of a HAC.

The CHSA Board will be established as an incorporated HAC acting as an 'umbrella' body for all country HACs. This Board will have similar functions to a local HAC but also have additional functions and powers that will enable it to hold and manage assets. The CHSA Board will continue with its advisory role in planning the location and types of services and the allocation of resources provided by Country Health SA. Members of current CHSA Board will be transitioned into the new body until such time as new membership is required.

In relation to HACs, the Bill gives powers to the Minister to amalgamate HACs, transfer the assets of a HAC or dissolve a HAC. This is consistent with the need to ensure services are allocated on the basis of need and to maximise the efficiency with which they can be provided.

In addition, the Bill has provisions describing the process that must be followed should there be a need to transfer any assets or abolish a HAC. The Bill ensures that the Minister must consult with the relevant HAC and that the Minister is satisfied that there has been a reasonable level of consultation with the community before any actions are taken. Where agreement is not reached, mediation is required. The Bill also provides for the regulations to prescribe the criteria which must be met before actions such as transferring assets or dissolving a HAC can occur. These criteria would include for example, the lack of demand or need for a service, the ability to ensure availability of qualified staff, and reasonable access to alternative services.

These provisions in the Bill and the regulations ensure that the principles of consultation with community and relevant bodies are maintained. They also support a balance between the powers to transfer or amalgamate assets that are necessary to ensure the health system can operate safely, effectively and efficiently and the right of local communities to have a strong voice about the use of their assets.

Unincorporated HACS will not hold assets but will have important advisory functions. They may be established for parts of the metropolitan area or for particular population or service groups. For example, the Country Ambulance Advisory Committee will become a Country Ambulance HAC that advises on issues for the volunteer ambulance service providers. The Country Ambulance Advisory Committee is well established and the principles of electing members will be reflected in their rules.

Under the proposed Act the Government will establish a HAC for veterans and as part of this will consult with organisations such as the RSL and other relevant bodies to determine the membership, functions and other matters that should be part of the Rules. Should the Repatriation General Hospital become part of Southern Adelaide Health Service, the Minister can establish, in consultation with its Board, a HAC for the that hospital site.

The Bill provides for the establishment of incorporated hospitals. The existing three metropolitan regions, Central Northern Adelaide Health Service, Southern Adelaide Health Service and the Children Youth and Women's Health Service will be maintained as incorporated hospitals. Country Health SA will be established as the incorporated hospital for the country region. These incorporated hospitals will be administered by Chief Executive Officers. As suggested earlier, the Repatriation General Hospital will remain as a separately incorporated hospital with its own board unless it chooses to become part of Southern Adelaide Health Service.

Staff of the incorporated hospitals will maintain their Fringe Benefits Tax entitlements under the Fringe Benefits Tax Assessment Act 1986. The Department has been formally advised of this by the Australian Taxation Office which has ruled that the three metropoli-

tan incorporated hospitals and the Repatriation General Hospital are hospitals for the purposes of Fringe Benefits Tax exemptions. The Australian Taxation Office is examining information from Country Health SA to determine its status as an incorporated hospital for Fringe Benefits Tax purposes. The Department expects that the Australian Taxation Office will make a similar ruling as for the other incorporated hospitals.

The Bill provides that health service staff will be employed under the proposed Health Care Act 2007.

Consistent with the *Statutes Amendment (Public Sector Employment) Act 2006*, the Chief Executive of the Department of Health will be the employing authority for all staff across the portfolio and will assign staff to the incorporated hospitals and the South Australian Ambulance Service as appropriate.

Transitional arrangements in the Bill provide for employees under the *South Australian Health Commission Act 1976* and ambulance officers under the *Ambulance Services Act 1992* to be assigned to work where they are currently employed without alteration to their conditions of employment and with recognition of current entitlements and awards.

Clerical and administrative staff under the *Ambulance Services Act 1992* will also translate to employment under the proposed Health Care Act without loss of conditions.

Under the Health Care Bill the *Ambulance Services Act 1992* will be repealed and the functions of SAAS will be managed under a new arrangement within the Department. The Bill ensures that SAAS will remain as an identifiable incorporated entity. Consistent with the incorporated hospitals, it will be managed by a chief executive officer. Services and staffing levels will remain unchanged under the proposed new governance arrangements.

It is important to note that SAAS does not operate as a commercial provider and, consistent with National Competition Policy principles, it is to the benefit of the community that it remains as the sole provider of emergency ambulance services in South Australia.

The Bill in its principles, makes it clear that it is in the public interest to have a single provider of emergency ambulance services to ensure that the maximum efficiency in terms of prioritising of calls, allocations based on need and nearest access to the service can be achieved in an emergency situation. Having a single provider will minimise the risk to the public that might arise from delays resulting from needing to coordinate a number of emergency ambulance services providers when a local, regional or statewide medical emergency arises. It will ensure the most efficient delivery of emergency ambulance services, consistent and appropriate standards of training and service delivery where lives are at risk, and a single system where a coordinated and unified response is required.

The licensing and exemption provisions of the *Ambulance Services Act 1992* will be part of the Health Care Bill.

While SAAS will not be required to have a licence, the Bill requires non-emergency ambulance providers to have a restricted ambulance licence. Private operators will continue to be able to transport patients in non-emergency situations where a clinical decision has been made that a patient requires a level of assistance for transfer between locations.

Transitional provisions will ensure that businesses currently holding a licence to provide non-emergency ambulance services can continue to do so under the conditions of their licence for a period of 12 months. After that time they will need to apply for a restricted ambulance service licence under the new Act.

While the provision of emergency ambulance services will be restricted so that these can only be provided by SAAS, the Bill allows other emergency ambulance services to be exempted from the licensing requirements and enables them to provide emergency ambulance services as they do currently. It is our intention to exempt certain services including the State Rescue Helicopter Service, patient retrieval services arranged by hospitals and medical practitioners and the Royal Flying Doctor Service.

In the interests of public health and safety the Bill will enable SAAS to authorise a person holding a restricted ambulance service licence to provide an emergency ambulance service in the case of a State emergency.

These licence holders will also be able to provide emergency ambulance services if the condition of a patient being transported by the operator suddenly deteriorates and they have taken reasonable action to contact SAAS seeking authorisation to provide such a service. To ensure that private operators act within the intent of this section of the legislation, SAAS can require them to provide a written report on the circumstances of the particular case that required them to operate as an emergency ambulance service. The fitting and use of appropriate lights and sirens will be subject to further consultations when drafting the regulations for this Bill along with consequential amendments to other regulations.

The Bill will also have provisions to allow the remaining country ambulance service operators to be exempted from certain provisions so they can continue to provide emergency ambulance services and there will be no change to the ambulance services currently provided.

The Bill has a specific provision to enable SAAS staff or volunteers to use force to enter premises. On occasion they have needed to use force to enter premises where it was believed that a person was in need of medical assistance and the police were unavailable to access the premises for SAAS in a timely manner. In such circumstances, SAAS acts in what it believes to be the best interest of the person, although no such express powers exist in the *Ambulance Services Act 1992*. This has created some uncertainty for SAAS staff and volunteers.

The Bill addresses this issue and gives powers to SAAS staff, including volunteer staff, to use force to enter premises where they reasonably believe that a person is in need of medical assistance. SAAS will develop a set of protocols or procedures that staff must follow for the purposes of this section. Included in these will be the need to contact the police in the first instance. These protocols will largely reflect current practices, but remove the uncertainty for SAAS where staff have had to forcibly enter premises in the past.

The quality and safety of health services is a prime concern of the public and health professionals. It is also an important consideration of the Bill. The Bill has much clearer provisions than those in the *South Australian Health Commission Act 1976* to ensure quality and safety activities can be carried out in a way that ensures information that can enhance or protect public health and safety is publicly available, but at the same time, protect the confidentiality of persons providing information or having access to information that support such an activity.

The quality improvement or research activities are protected in the same way as that currently provided for under section 64D of the *South Australian Health Commission Act 1976*. However the provisions in this Bill have taken into account recent Crown Law advice and court judgements to ensure persons or groups of persons conducting research into the causes of mortality or morbidity, or involved in the assessment and improvement of the quality of specified health services are properly protected from being legally required to make certain information public.

The provisions in the Bill support clinicians, managers and others to communicate openly and honestly in assessing the processes and outcomes of the provision of health services where there has been a significant adverse event and to make recommendations for system improvements. This is most likely to happen where those involved are secure in the knowledge that what they divulge cannot be made public or used in any proceedings. The Bill, in promoting full and frank discussion in a 'protected' environment for the purposes of facilitating quality improvement in health services, maintains the right to have access to or disclose information in the public interest. This is consistent with what is the current intent of section 64D of the *South Australian Health Commission Act 1976*. To further support participation in an analysis of an adverse event undertaken under Part 8 of the Bill, a provision is drafted enabling a person who believes they have been victimised as a result of this participation to take action that can be dealt with as a tort or under the *Equal Opportunity Act 1984*.

The Bill provides for a specific investigative procedure, a Root Cause Analysis, to be undertaken where there has been an adverse incident. Root Cause Analysis is a specific type of quality improvement activity which uses an investigative method to determine the underlying contributing factors leading to an adverse event. The purpose is to identify the system issues that result in adverse events occurring and to arrive at a series of recommendations to reduce the likelihood of the adverse event from occurring again. RCA has a systems focus. It does not review individual responsibility nor does it investigate performance, intentionally unsafe acts, criminal acts or acts relating to clinician impairment. These are left to the appropriate bodies such as registration boards or courts.

In drafting these provisions, account has been taken of interstate and overseas legislation and a 'best practice' document issued by the Australian Council for Safety and Quality in Health Care in framing the proposed provisions.

Importantly with these governance changes, the Bill has provisions for testamentary dispositions or trusts made or created before or after the commencement of the Act. These provisions ensure that they can be applied according to the testator's wishes or,

in circumstances where this may no longer be possible, establishes a process to ensure that they are properly dealt with to minimise the risk of a testamentary disposition or trust failing.

The provisions do not derogate from the *Trustee Act 1936* and ensure that the Attorney-General is consulted as part of the process where the Minister is to make a designation regarding the disposition of a trust to another entity where the entity to which the trust had originally applied, may no longer exist.

The Bill has provisions to allow trusts previously held by an existing local country hospital board to continue to be held for the same purpose by an incorporated HAC. This is intended to ensure that any gifts or bequests to those bodies will not fail.

These provisions are based on extensive consultations between the Attorney-General's Department and the Department of Health.

The Government is also mindful of the need to be able to regulate the management, operation or winding up of any gift fund, or other funds or accounts. The Government is committed to the prudential management of such funds and accounts and aware of the potential taxation implications if appropriate regulatory provisions are not in place. Accordingly, a specific regulation-making power is included to address these issues. However, it will also be necessary and appropriate that any relevant regulations operate subject to any requirements imposed by a trust, under another Act or by the general law with respect to the management or disposal of property, including so as to ensure consistency with the terms or conditions of any trust or gift.

Private hospitals will continue to be regulated under the Health Care Bill in the same way as they are under the *South Australian Health Commission Act 1976*. However this section will need to be reviewed and the Act will potentially need to be amended at some later stage to address any changes.

This is not directly relevant to the reforms of the public health system and therefore I do not intend to confuse matters that may arise from a review of these provisions with the governance reforms for the public health system.

The Bill provides for greater sharing of information with carers, health professionals and others involved in providing care, and balances this with the right of the patient to privacy. This is in response to the concerns of carers and families and clarifies the circumstances where information can be disclosed for on-going treatment and care of patients.

This Bill makes possible very important changes to the governance and orientation of our public health system. It also improves existing provisions or provides new provisions such as those for the better protection of public health and safety; for persons having made or who may consider making a testamentary disposition to a health service and for greater protection of staff and patients by giving powers to authorised officers to remove or restrain persons who are behaving offensively.

Transitional provisions will ensure that necessary by-laws, including those of health centres designated by the Governor, can continue until such time as they are re-issued or replaced under alternate arrangements.

The Bill as tabled is the outcome of a thorough consultation process and has incorporated many of the suggestions and recommendations arising out of this process. The responses from the regions and metropolitan area have been supportive of the reforms embodied in the Bill. For example, Southern Adelaide Health Service stated that "it believed that the draft legislation appropriately translates the Government's announced directions for health system governance. It is recognised that the intention of the Bill is to create a unified, single public health system with improved statewide coordination and integration of public health services. The establishment of both the proposed Health Performance Council and the Health Advisory Councils are welcome initiatives and are important to further enhance the community and consumer interface that has been an important focus of health reform to date.

The RSL also acknowledged the "need for improvements to the public health system" and offers "our support to these changes, designed to provide a unified and coordinated health system for the future".

The country region, where there will be a significant impact, has been particularly supportive and it is appropriate to read some of their comments.

The Country Health SA Board—"would like to express it's appreciation of the open manner in which the whole process has been conducted and in particular to the Minister for Health for his responsiveness to the comments offered from time to time by Country Health SA and to the views expressed by country people in general. The Minister has remained faithful to a vision of stronger and more sustainable health services for country residents delivered closer to home and to maintaining the strong connections between local communities and the health services which have developed over many years. The Country Health SA Board thanks the Minister for the consistency of his approach and for his support for country health services in the context of this major change to governance arrangements. The Board supports the general thrust of the draft Bill and wishes to express its support for the following aspects of the Bill." The comments from the Board went on to list support for a range of provisions in the Bill, including: the object of having an integrated system that provides optimal health outcomes for South Australians; the principles of the Bill; inclusion of representatives with knowledge of Aboriginal issues in the model constitution and rules for HACs; and the establishment of the Health Performance Council.

Aboriginal Health Council SA—stated it supports the overall objective of the Bill, to ensure a health system that is accessible, safe, and reliable for all residents of SA.

Mid North Health—while Mid North Health commented it would prefer to remain as a Board, it also stated "we have welcomed the opportunity to be involved in the consultation about the draft, enabling us to have input to produce an outcome that is as 'user-friendly' as possible".

Ceduna District Health Service—"Board are in support of the intent of the proposed legislation, in particular the board feel that the proposed role of the HACs is much more in line with what community members believe the role of existing boards should be. That is, advocacy and provision of advice, rather than administration of clinical and corporate governance."

Aboriginal Health Council—commented that it generally supports the processes that are in place at present and proposed for moving forward.

Yorke Peninsula Health—"the Board gives in principle support to the introduction of the Bill to underpin the transition to a systematic approach to future health care delivery".

In closing I would say that all South Australians are entitled to enjoy a good long healthy life. To better support people to have this opportunity, the public health system needs to change to address the challenges before it and provide safe and effective health care and support to individuals and communities as well as supporting the full range of health professionals. The complexities of the contemporary health system require more direct responsibility and accountability for the services it provides.

As stated in South Australia's Health Care Plan, "Improving the health and well-being of the South Australian community will require us all to take responsibility to develop a combined approach from individuals, community groups, government and non-government sectors

The Bill will enable the development of a better more coordinated and integrated health service and support a stronger focus on the quality and safety of the services.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

The measure will be brought into operation by proclamation.

3—Interpretation

This clause sets out the terms that are defined for the purposes of the measure.

The following key definitions are specifically noted:

ambulance means a vehicle that is equipped to provide medical treatment or to monitor a person's health and that is staffed by persons who are trained to provide medical attention during transportation;

ambulance service means the service of transporting by the use of an ambulance a person to a hospital or other place to receive medical treatment or from a hospital or other place at which the person has received medical treatment;

emergency ambulance service means an ambulance service that—

(a) responds to requests for medical assistance (whether made by 000 emergency telephone calls or other means) for persons who may have injuries or illnesses requiring immediate medical attention in order to maintain life or to alleviate suffering; and

(b) is set up to provide medical attention to save or maintain a person's life or alleviate suffering while transporting the person to a hospital;

health service means—

(a) a service associated with:

(i) the promotion of health and well-being; or

(ii) the prevention of disease, illness or injury; or

(iii) intervention to address or manage disease, illness or injury; or

(iv) the management or treatment of disease, illness or injury; or

(v) rehabilitation or on-going care for persons who have suffered a disease, illness or injury; or

(b) a paramedical or ambulance service; or

(c) a residential aged care service; or

(d) a service brought within the ambit of this definition by the regulations,

but does not include a service excluded from the ambit of this definition by the regulations;

medical treatment includes all medical or surgical advice, attendances, services, procedures and operations.

4—Objects of Act

The objects of the measure are—

(a) to enable the provision of an integrated health system that provides optimal health outcomes for South Australians; and

(b) to facilitate the provision of safe, high-quality health services that are focussed on the prevention and proper management of disease, illness and injury; and

(c) to facilitate a scheme for health services to meet recognised standards.

5—Principles

A number of principles are to be applied in connection with the operation and administration of the legislation.

Part 2—Minister and Chief Executive

6—Minister

The Minister is to have a variety of functions in connection with the operation of the measure (to be performed to such extent as the Minister considers appropriate).

7—Chief Executive

The Chief Executive of the Department is to have a variety of functions in connection with the operation of the measure. The Chief Executive will be responsible to the Minister for the overall management, administration and provision of health services within the Minister's portfolio, to assume direct responsibility for the administration of incorporated hospitals and to ensure that the Department undertakes a leadership role in the administration of health services. The Chief Executive will also be required to ensure that the Department establishes and maintains consultation processes with members of the community, volunteers, carers and health service providers.

8—Delegations

The Minister and the Chief Executive will have the ability to delegate functions and powers.

Part 3—Health Performance Council

9—Establishment of Health Performance Council

The Health Performance Council (***HPC***) is to be established. The members of HPC will be constituted by persons who together, in the opinion of the Minister, have a variety of talents and a range of experience, skills and qualifications to enable HPC to carry out its functions effectively.

10—Provisions relating to members, procedures and committees and subcommittees

Schedule 1 sets out associated provisions with respect to HPC.

11—Functions of HPC

The functions of HPC will include to provide advice to the Minister about—

(a) the operation of the health system; and

(b) health outcomes for South Australians and, as appropriate, for particular population groups; and

(c) the effectiveness of methods used within the health system to engage communities and individuals in improving their health outcomes.

12—Annual report

HPC will be required to prepare an annual report, which will be laid before both Houses of Parliament.

13—4-yearly report

HPC will prepare a 4-yearly report that assesses the health of South Australians and changes in health outcomes over the reporting period. In particular, the report will be required (amongst other things) to—

(a) identify significant trends in the health status of South Australians and consider future priorities for the health system having regard to trends in health outcomes, including trends that relate to particular illnesses or population groups; and

(b) review the performance of the various health systems established within the State in achieving the objects of this Act.

The report will be laid before both Houses of Parliament. The Minister will be required to prepare a formal response to the report within 6 months after the receipt of the report.

14—Use of facilities

HPC may, with the approval of the responsible Minister or, if relevant, a responsible public sector instrumentality, make use of the staff, services or facilities of an administrative unit or another public sector instrumentality.

Part 4—Health Advisory Councils

Division 1—Establishment of Councils

15—Establishment of Councils

The Minister will be able to establish Health Advisory Councils (***HACs***) to undertake an advocacy role on behalf of the community, to provide advice, and to undertake other functions, in relation to health service entities, the Minister or the Chief Executive. The Minister may establish a HAC as an incorporated body or an unincorporated body.

16—Status

This clause makes provision with respect to the corporate nature of an incorporated HAC, and the powers and functions of HACs.

17—Constitution and rules

An incorporated HAC will have a constitution and an unincorporated HAC will have a set of rules.

Division 2—Functions and powers

18—Functions

This clause provides an indication of the functions that a HAC may adopt (as set out in the constitution or rules of the HAC). Subject to the Act, a HAC will be required to take into account the strategic objectives that have been set or adopted within the Government's health portfolios. An incorporated HAC will be expected, with respect to the entity in relation to which it is established—

(a) to support and foster the activities and objects of the entity; and

(b) subject to this Act, to hold its assets for the benefit, purposes and use of the entity on terms or conditions determined or approved by the Minister.

19—Specific provisions in relation to powers

A HAC will require the approval of the Minister before exercising a number of specified powers.

Division 3—Related matters

20—Specific provisions in relation to property

This clause sets out a scheme for the transfer of assets, rights or liabilities of a HAC by a notice published by the Minister in the Gazette.

21—Accounts and audit

A HAC will be required to keep proper accounts and financial statements.

22—Annual report

This clause provides for the preparation of an annual report in connection with the operations of a HAC.

23—Use of facilities

A HAC may, with the approval of the responsible Minister or, if relevant, a responsible public sector instrumentality, make use of the staff, services or facilities of an administrative unit or another public sector instrumentality.

24—Delegations

A HAC will have the ability to delegate functions and powers, subject to any limitation or exclusion determined by the Minister.

25—Access to information

This clause sets out a specific power vested in a HAC to request the provision of information.

26—Common seal

This clause facilitates proof of the use of the common seal of an incorporated HAC.

27—Schedule 2 has effect
Schedule 2 sets out associated provisions with respect to HACs.
28—Administration
The Minister will be able to remove the members of a HAC from office on a ground specified by the regulations. The Minister will be able to appoint an administrator pending the appointment of new members. An administrator may act for a period of up to 12 months.
Part 5—Hospitals
Division 1—Incorporation
29—Incorporation
The Governor will be able to establish an incorporated hospital to provide services and facilities under the Act.
30—Hospital to serve the community
An incorporated hospital must be administered and managed on the basis that its services will address the health needs of the community (which may occur by focussing on 1 or more areas or sections of the community).
31—General powers of incorporated hospital
An incorporated hospital will have various statutory powers.
32—Common seal
This clause facilitates proof of the use of the common seal of an incorporated hospital.
Division 2—Management arrangements
33—Management arrangements
The Chief Executive will be responsible for the administration of an incorporated hospital. The Chief Executive will be able to appoint a person as the CEO of an incorporated hospital. Such an appointment will not prevent the Chief Executive from acting personally in a matter. This scheme operates subject to Schedule 3 with respect to the Repatriation General Hospital.
Division 3—Employed staff
34—Employed staff
This clause provides for an employing authority to employ persons to work in an incorporated hospital.
35—Superannuation and accrued rights, etc
This clause sets out various matters associated with the employment of persons at incorporated hospitals.
Division 4—Accounts, audits and reports
36—Accounts and audit
An incorporated hospital must keep proper accounts and prepare financial statements.
37—Annual report
An incorporated hospital will prepare an annual report.
Division 5—Sites, facilities and property
38—Ability to operate at various sites
This clause makes it clear that an incorporated hospital may be established or undertake its activities at various sites.
39—Ability to provide a range of services and facilities
This clause sets out some specific powers of an incorporated hospital, including to operate—

(a) sites that provide a variety of health services;

(b) health and community care services for all or specific sections of the community, including residential services for the aged and other vulnerable groups, or for persons who must interact with the public health system;

(c) other forms of service or facilities (including services and facilities that benefit (directly or indirectly) staff, patients or visitors, and services and residential facilities for the aged and other forms of accommodation).

40—Acquisition of property
The Minister will be able to acquire land under the *Land Acquisition Act 1969* for the purposes of an incorporated hospital.
Division 6—Delegations
41—Delegations
An incorporated hospital will have the ability to delegate functions and powers.
Division 7—By-laws and removal of persons
42—By-laws
An incorporated hospital will continue to have power to make by-laws for specified purposes. A by-law must be approved by the Minister and confirmed by the Governor.
43—Removal of persons
This clause sets out a scheme to enable an authorised officer to take action in relation to a person who—

(a) is considered by an authorised officer to be acting in a manner that constitutes disorderly or offensive behaviour; or

(b) is considered by an authorised officer on reasonable grounds to be a threat to another person at the site; or

(c) is suspected by an authorised officer on reasonable grounds of being unlawfully in possession of an article or substance; or

(d) is otherwise suspected by an authorised officer on reasonable grounds to have committed, or to be likely to commit, an offence against any Act or law.

Division 8—Fees
44—Fees
The Minister will be able to set fees to be charged by an incorporated hospital in respect of services provided by the hospital.
Division 9—Rights of hospitals against insurers
45—Interpretation
46—Report of accidents to which this Division applies
47—Notice by designated entity to insurer
48—First claim of designated entity
These clauses replicate Part 3 Division 8 of the current Act.
Part 6—Ambulance services
Division 1—South Australian Ambulance Service (SAAS)
49—Continuation of SAAS
The SA Ambulance Service is to continue as a body incorporated under this Act. The staff of SAAS will include volunteers who are appointed to assist with the operations or activities of SAAS.
50—Management arrangements
The Chief Executive will be responsible for the administration of SAAS. The Chief Executive will be able to appoint a person as the CEO of SAAS. Such an appointment will not prevent the Chief Executive from acting personally in a matter.
51—Functions and powers of SAAS
The primary function of SAAS will be to provide ambulance services within the State (and beyond).
52—Employed staff
This clause provides for an employing authority to employ persons to assist SAAS in its operations or activities.
53—Accrued rights for employees
This clause sets out various matters associated with the employment of persons at SAAS.
54—Delegation
SAAS will have ability to delegate functions and powers.
55—Accounts and audit
SAAS must keep proper accounts and prepare financial statements.
56—Annual report
SAAS will prepare an annual report.
Division 2—Provision of ambulance services
57—Emergency ambulance services
Emergency ambulance services will be provided by SAAS, as prescribed by the regulations, or under a specific exemption granted by the Minister for the purposes of this Part. In addition, a person holding a restricted ambulance service will be able to provide an emergency ambulance service if—

(a) the person is acting within the scope of an authorisation given by SAAS (either in relation to specified cases, or in relation to a particular case, and subject to such conditions as may be prescribed by the regulations or determined by SAAS); or

(b) the person has reason to believe that failure to provide such a service will put at risk the health or safety of a particular person, or of a section of the public more generally, and the person providing the service has taken such action as is reasonable in the circumstances to contact SAAS to seek an authorisation under this section; or

(c) the person is acting at the direction or request of SAAS.

58—Licence to provide non-emergency ambulance services
A person will not be able to provide a non-emergency ambulance service unless—

(a) the services are carried out—

(i) by SAAS; or

(ii) by a person acting under the direction or request of SAAS; or

(b) the person holds a licence under this section (a ***restricted ambulance service licence***); or

(c) the services are provided by a person or a person of a class, or in circumstances, prescribed by regulation; or

(d) the services are provided under an exemption granted by the Minister under this Part.

Division 3—Miscellaneous

59—Fees for ambulance services

The Minister will be able to set fees to be charged for ambulance services.

60—Holding out etc

A person must not hold himself or herself out as carrying on the business of providing ambulance services except as provided or authorised under this Part. A person must not hold himself or herself out as being engaged in the provision of ambulance services unless he or she is a properly authorised member of the staff of an ambulance service.

61—Power to use force to enter premises

A member of the staff of SAAS will be able to break into premises if the person believes that it is necessary to do so to determine whether a person is in need of medical assistance, or to provide medical assistance. A person so acting must comply with any protocol or practice established by SAAS.

62—Exemptions

This clause facilitates the scheme for granting Ministerial exemptions under this Part.

Part 7—Quality improvement and research

63—Preliminary

This clause sets out various definitions associated with a new scheme to provide for the assessment or evaluation of health services under a Ministerial declaration.

64—Declaration of authorised activities and authorised persons

The Minister will be able, by notice in the Gazette, to declare an activity to be an authorised quality improvement activity or an authorised research activity, or to declare a person or group of persons to be an authorised entity for the purposes of carrying out a declared quality improvement activity or research activity. The Minister will be required to make the health and safety of the public the primary consideration when acting under this provision.

65—Provision of information

Information (including confidential information) may be disclosed for the purposes of an authorised activity without the breach of any law or principle of professional ethics.

66—Protection of information

This clause provides for the protection from disclosure of information gained as a result of an authorised activity, or gained on behalf of an authorised person in connection with an authorised activity.

67—Protection from liability

No act or omission in good faith for the purposes of an approved activity, or that is reasonably believed to be for the purposes of an approved activity, gives rise to a liability.

Part 8—Analysis of adverse incidents

68—Preliminary

This clause sets out various definitions associated with a new scheme to provide for the investigation of adverse incidents in the provision of health services.

69—Appointment of teams

It will be possible to appoint a team under this Part to investigate an adverse incident.

70—Restrictions on teams

An investigation will not extend to inquiring into the competence of a particular person.

71—Provision of information

Information (including confidential information) may be disclosed to a team under this Part without the breach of any law or principle of professional ethics.

72—Reports

A team will prepare 2 reports at the end of an investigation. 1 report will contain—

(a) a description of the adverse incident, based on facts that, in the opinion of the team, are known independently of its investigation; and

(b) the team's recommendations.

The second report will contain (as the team thinks fit)—

(a) a description of the adverse incident;

(b) a *flow* diagram;

(c) a *cause and effect* diagram;

(d) a *causation* statement;

(e) the recommendations of the team;

(f) the working documents associated with the team's investigation and processes (incorporated as attachments);

(g) any other material considered relevant by the team.

The second report will not be released to the general public.

73—Protection of information

This clause provides for the protection of information gained through the activities of a team under this Part.

74—Immunity provision

No act or omission in good faith for the purposes of an investigation, or that is reasonably believed to be for the purposes of an investigation, under this Part gives rise to a liability.

75—Victimisation

This clauses sets out a scheme to protect a person who provides information in connection with an investigation under this Part.

Part 9—Testamentary gifts and trusts

76—Interpretation

A ***prescribed entity*** under Part 9 will be a hospital or health centre incorporated under the repealed Act, an entity incorporated under another Act that provides health services (other than a private hospital), or an entity incorporated under this Act. However, the regulations may exclude an entity from the operation of the Part.

77—Application of Part

The Part will be in addition to, and not in derogation of, the *Trustee Act 1936*.

78—Testamentary gifts and trusts

The scheme will facilitate the effect or operation of testamentary dispositions or trusts made for the benefit of a prescribed entity that has been dissolved and that has had its functions transferred to an incorporated hospital under the Act. A comparable provision will apply if the disposition or trust is for the benefit of patients or residents of a prescribed entity.

Part 10—Private hospitals

79—Prohibition of operating private hospitals unless licensed

80—Application for licence

81—Grant of licence

82—Conditions of licence

83—Offence for licence holder to contravene Act or licence condition

84—Duration of licences

85—Transfer of licence

86—Surrender, suspension and cancellation of licences

87—Appeal against decision or order of Minister

88—Inspectors

These clauses replicate Part 4B of the current Act.

Part 11—Miscellaneous

89—Application of PSM Act

The Governor will be able, by proclamation, to apply (with specified modifications) provisions of the *Public Sector Management Act 1995* to persons employed at incorporated hospitals (see section 59 of the current Act).

90—Recognised organisations

This clauses contains a scheme that allows recognised organisations to make submissions about matters arising out of, or in relation to, the performance or exercise of functions or powers of an employing authority or incorporated hospital under the Act (see section 61 of the current Act).

91—Duty of Registrar-General

This clause will facilitate the registration of the vesting of any land in a relevant entity under the Act (see section 62 of the current Act).

92—Conflict of interest

This clause requires a health employee to declare a conflict of interest (see section 63A of the current Act).

93—Confidentiality and disclosure of information

This clause relates to ***personal information*** obtained by a "person engaged in the operation of the Act". A person engaged in the operation of the Act will be taken to be—

(a) an officer or employee of the Department engaged in the administration of the Act; or

(b) a person employed by an employing authority under the Act; or

(c) a member of the staff of SAAS; or

(d) a person otherwise engaged to work at an incorporated hospital or in connection with the activities of SAAS.

Such a person so engaged (or formerly engaged) will not be able to disclose personal information except to the extent that the person may be authorised or required to do so under this clause. The disclosure will be on the grounds set out in the clause, as authorised by the Chief Executive, an employer, an incorporated hospital or SAAS, or as authorised under the regulations.

94—Offences by bodies corporate

If a body corporate is guilty of an offence against the Act, every person who is a member of the governing body of the body corporate is guilty of an offence and liable to the same penalty as is prescribed for the principal offence unless the person proves the general defence under the Act.

95—General defence

It is a defence to a charge of an offence against the Act (the ***general defence***) if the defendant proves 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.

96—Evidentiary provision

This clause sets out various evidentiary presumptions.

97—Administrative acts

This clause provides for the immunity from liability of the Minister and SAAS with respect to certain administrative acts under the Act.

98—Forms of Ministerial approvals

This clauses facilitates the operation of those provisions of the Act that provide that the Minister may give an approval.

99—Gift funds established by Minister

This clauses makes express provision for the establishment of 1 or more *gift funds* by the Minister.

100—Regulations

The Governor will make regulations for the purposes of the Act.

Schedule 1—Health Performance Council

This schedule relates to the members and proceedings of the Health Performance Council.

Schedule 2—Special provisions relating to the Repatriation General Hospital Incorporated

This schedule relates to the members and proceedings of Health Advisory Councils.

Schedule 3—Related amendments, repeals and transitional provisions

This schedule provides for the administration of the Repatriation General Hospital by a board of directors.

Schedule 4—Related amendments, repeals and transitional provisions

This schedule makes a series of related amendments to other Acts, provides for the repeal of 3 Acts, and sets out transitional provisions associated with the enactment of this new measure.

Mrs REDMOND secured the adjournment of the debate.

SENIOR SECONDARY ASSESSMENT BOARD OF SOUTH AUSTRALIA (REVIEW) AMENDMENT BILL

The Hon. J.D. LOMAX-SMITH (Minister for Education and Children's Services) obtained leave and introduced a bill for an act to amend the Senior Secondary Assessment Board of South Australia Act 1983. Read a first time.

The Hon. J.D. LOMAX-SMITH: 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 *Senior Secondary Assessment Board of South Australia (Review) Amendment Bill 2007* will provide necessary amendments to the *Senior Secondary Assessment Board of South Australia Act 1983*, allowing for a modern board and enhanced systems to enable the introduction of the future South Australian Certificate of Education (SACE).

This Bill is the next step in the Rann Government's measures to reform and revitalise education and children's services across the State and the legislation that underpins those services.

The reforms stem from research and extensive consultation undertaken as part of the review of the SACE and an independent examination of the current Act. This independent review of the Act considered the relevant issues raised in the SACE review report and examined comparable legislation in other Australian jurisdictions.

The formation of a SACE Board within a new legislative framework will be the key driver in the reinvigoration of the South Australian Certificate of Education, to which the State Government has committed $54.5m.

This Bill provides further evidence of this Government's continued commitment to strengthening the opportunities, skills, knowledge and values of every child through the provision of quality services. We need a firm legislative base, which is relevant for today and flexible enough to provide for the future needs of South Australia's young people.

The Bill adds to the list of improvements to education and care instituted by the Rann Government—we established the *Teachers Registration and Standards Act 2004*, we are again increasing the leaving age and over the next eighteen months will be consulting on, and introducing, further legislation which will enable and sustain a high quality education and care system.

The implementation of the provisions within this Bill, together with the future SACE, will build on the best of the current certificate and the outstanding contribution of the Senior Secondary Assessment Board of South Australia (SSABSA).

The Act, when amended, will consolidate and make clear the vital partnership between the Board that oversees the SACE, the education sectors that deliver it and the responsible Minister. This Bill articulates our mutual responsibilities and our commitment to the community and our senior secondary students.

This Bill will underpin a new SACE which will be more responsive to the learning needs of all young people while maintaining high standards expected by the community.

The future SACE, underpinned by this Bill, will give formal recognition to a wider range of learning achievements than has hitherto been possible, and provide a greater level of flexibility so that schools can better respond to the learning needs of all students.

The future SACE will equip students with a solid foundation in literacy and numeracy, provide a plan for future career development and participation and allow all students an opportunity to gain the knowledge and capabilities they will require to contribute as citizens of South Australia.

This legislation embeds these ideals in its Principles and will ensure they are given effect, to the benefit of all young people in South Australia, through the establishment of an expert SACE Board with enhanced functions and responsibilities.

The planned reforms will also support the Government's aim of seeing all 17 year olds achieving to their full potential through full-time education, training or work.

The new SACE Board appointed under this legislation will be charged with overseeing the accreditation of the future SACE and ensuring its continued international and national credibility, its relevance and rigor. The Board will make sure that the right systems are in place and the principals of equity and excellence are followed so that completion of the SACE or an equivalent qualification will give all young people a passport to achieve their potential and create a sustainable future for South Australia.

The proposed changes to the Act take into account not only a wide range of views from teachers, parents, young people and the business community, gathered during the SACE review and subsequent review of the Act, but also the views of the community and key stakeholders sought through the release of the discussion paper for public comment and targeted consultations on the draft Bill.

Valuable input has been received from educators, community members, Parent and Professional Associations, the Catholic and Independent schooling sectors, the Independent Education Union, the Australian Education Union, South Australian Universities and the SSABSA Board in shaping this legislation.

Key features of the Bill include:

- the inclusion of core principles which underpin the operation of the Act and the Board;

· renaming the Board as the *SACE Board of South Australia*, which reflects the new focus of the Board;

· nomination by the Minister of a strategic expert Board of 11 members who together have relevant abilities, knowledge, skills and experience to carry out the functions required, while seeking to achieve a gender balance;

· a requirement that at least four Board members have specific knowledge and expertise in relation to the provision of senior secondary education, one of whom is currently or recently engaged in provision of senior secondary education;

· a requirement that the Minister call for expressions of interest and canvas the views of listed key stakeholders in nominating Board members;

· sharpening and strengthening the Board's powers and functions to accredit a wide range of learning achievements toward the SACE, consistent with the principles of the Act and the Government's directions for the education of all young people, as outlined earlier;

· provisions that require and enable the SACE Board to work collaboratively and cooperatively with the schooling sectors and the responsible Minister, including a limited power of direction;

· enhanced accountability requirements concerning the Board's strategic directions, targets and reporting, particularly in relation to consultation processes;

· transitional provisions that support smooth implementation of the changes while preserving employment entitlements for the existing SSABSA Chief Executive Officer and staff.

The Government has made a public commitment that the proposed changes will be implemented with minimal disruption to students and staff. Parliamentary consideration and passage of the Bill at this time will enable the smooth transition. This will allow the new SACE Board to be appointed and take and promulgate important decisions around requirements of the *future* SACE, in time for its introduction from the beginning of 2009.

As Members would be aware, this timeframe also coincides with the operation of amendments to the *Education Act 1972* which will ensure that all 16 year olds are participating in full-time education or training until they turn 17.

I am confident that the education and wider community want strong and sound governance for the future SACE and this Bill, which I commend to Members, delivers just that.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

The measure will be brought into operation by proclamation.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Senior Secondary Assessment Board of South Australia Act 1983*

4—Amendment of long title

The name of the body corporate known as the *Senior Secondary Assessment Board of South Australia* is to be altered. This is a consequential amendment.

5—Amendment of section 1—Short title

The short title of the Act is to be amended in a manner consistent with the proposed change of name of the Board.

6—Amendment of section 4—Interpretation

Most of these amendments relate to substantive changes to be made to the Act by other provisions of the Bill.

One substantive change under this clause is that the ***employing authority*** will be designated, at first instance, by the Act and the person so designated is to be the Chief Executive Officer of the Board.

Another amendment will make specific provision for references to the *South Australian Certificate of Education*.

7—Insertion of section 5

It is proposed to incorporate a number of principles that are to be applied in connection with the operation of the Act. These principles are proposed to be as follows:

(a) all young people are to be encouraged to obtain a formal education qualification that helps them to live and participate successfully in the world as it constantly changes, after taking into account their goals and abilities;

(b) it is recognised—

(i) that young people acquire skills, values and knowledge associated with their education through their individual endeavours and through a range of learning experiences and in a variety of situations that may include, as well as schools, workplaces and training and community organisations; and

(ii) that young people require a range of skills and knowledge, including literacy and numeracy skills, to assist them to succeed in the wider community;

(c) the qualification that is awarded by the Board should—

(i) acknowledge the skills and knowledge that have been acquired through formal education and training and other learning processes; and

(ii) reflect rigorous standards and community expectations; and

(iii) be consistent with an appropriate Australian qualification framework;

(d) cooperation and collaboration between the Board, the school education sectors and the Minister are to be recognised as fundamental elements to achieving the best outcomes for students seeking to qualify for the SACE.

8—Substitution of heading to Part 2

This clause is consequential.

9—Amendment of section 7—The Board

The body corporate known as the Senior Secondary Assessment Board of South Australia is to continue in existence as the *SACE Board of South Australia*.

10—Substitution of sections 8 and 9

The membership of the Board is to consist of the Chief Executive Officer (*ex officio*) and 11 other members appointed by the Governor on the nomination of the Minister. The Minister will be required to seek to ensure that the membership of the Board comprises persons who—

(a) together provide a broad range of backgrounds that are relevant to the activities and interests of the Board; and

(b) together have the abilities, knowledge and experience necessary to enable the Board to carry out its functions effectively.

In addition—

(a) at least 4 of the appointed members of the Board must have specific knowledge and expertise in relation to the provision of senior secondary education and, of these members, at least 1 must be a person who is currently engaged, or who has recently been engaged, in the provision of senior secondary education; and

(b) the Minister must seek to achieve a reasonable gender balance in the membership of the Board.

11—Amendment of section 9A—Chief Executive Officer

The position of Chief Executive Officer of the Board is to continue. The Chief Executive Officer is now to be appointed by the Governor on the recommendation of the Minister on terms and conditions approved by the Premier.

12—Amendment of section 10—Procedures etc of Board

The Chief Executive Officer will be a non-voting member of the Board. It will now be possible for the members of the Board to meet by a conference conducted by telephone or other electronic means, and to make resolutions by decisions communicated in various ways, including e-mail.

13—Amendment of section 12—Delegation

The Board is to be given greater flexibility in making delegations.

14—Amendment of section 15—Functions of Board

The functions of the Board are to be revised. A key function will be to establish the *SACE* qualification to be awarded by the Board under the Act. The Board will be expressly required to consult with the Minister and the school sectors on the development and review of courses and subjects.

15—Amendment of section 16—Powers of Board

This amendment will make it clear that the Board can act outside the State.

16—Insertion of section 17A

It is proposed to make provision for the ability of the Minister to give a direction to the Board about a matter relevant to the performance or exercise of a function or power of the Board. However, the Minister will not be able to give a direction—

(a) in relation to the content or accreditation of any subject or course under the Act; or

(b) in relation to the assessment of, or recording the results of, a student's achievements or learning.

A direction will be in writing and a report on any direction will need to be tabled in Parliament.

17—Substitution of section 19

The Minister will be able to request the Board to provide a statement setting out the Board's strategic directions and targets, and to provide its budget.

18—Amendment of section 20—Report

The Board's annual report will be required to include a specific report on the consultation processes established or used by the Board in connection with the performance of its functions under the Act.

19—Amendment of section 23—Regulations

It will be important to be able to have a mechanism to ensure that transitional issues associated with amendments to the Act can be addressed. Such mechanisms will be set out in the regulations.

20—Insertion of Schedule 1

This amendment will establish the ***designated entities*** for the purposes of the Act.

Schedule 1—Transitional provisions

This Schedule makes specific provision on account of changes to the composition of the Board, and to guarantee continuity of employment for the Chief Executive Officer and the staff of the Board.

Mrs REDMOND secured the adjournment of the debate.

ENVIRONMENT PROTECTION (SITE CONTAMINATION) AMENDMENT BILL

Received from the Legislative Council and read a first time.

The Hon. J.D. HILL (Minister for Health): 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.

This Bill is an important step in the process of managing site contamination in South Australia.

Site contamination is a matter of international and national concern that has emerged as a major environmental and land use planning issue in South Australia over the past decade following a number of cases in the late 1980s and 1990s when development occurred on land where site contamination was subsequently found to exist.

These included, for example, a residential development at Bowden being built on former industrial land that was affected by a hazardous chemical, and another residential development built on the site of a former tannery which had contaminated the soil with arsenic. In these instances, contamination of both the soil and groundwater beneath the sites were potential sources of exposure and health risk for residents.

Unlike the majority of the Australian States and Territories, South Australia does not have an effective legislative framework to deal with the assessment and remediation of site contamination, with the powers under the *Environment Protection Act 1993* (the Act) not extending to contaminating activities that occurred before the commencement of the Act on 1 May 1995. Although considered at the time the Environment Protection Bill was developed and introduced into the Parliament in 1993, site contamination provisions were deferred until such time as a national position on liability was agreed. This occurred in 1994 under *Financial Liability for Contaminated Site Remediation* prepared by ANZECC (Australia and New Zealand Environment and Conservation Council) and endorsed by the State government in 1994.

As there is no effective legislative or policy framework to deal with the assessment and remediation of site contamination, site contamination is currently managed by the EPA in an administrative manner.

Site contamination, as defined in the Bill, exists when chemicals have been added to land above background levels through an activity resulting in an actual or potential impact on human health or the environment, in particular, on water.

These past activities include industrial, commercial or agricultural practices. While the contaminants deposited may not have an immediate effect on the existing industrial use of the land, a change of land use to, for example, residential, requires any potential site contamination to be identified, assessed and managed to ensure the land is suitable for its intended purpose.

As is the case in Australia and in other industrialised countries, the demand for land in South Australia, in particular for residential land in the Adelaide metropolitan area has led and is leading to the redevelopment of former industrial, commercial areas and agricultural areas such as market gardens.

In Australia, the issue of the identification, assessment and remediation of land contamination was recognised during the 1980s and 1990s, with States such as Victoria, NSW, Queensland, the ACT and, most recently, Western Australia in December 2006, responding by introducing either specific legislation or amending existing legislation to address the management of contaminated land.

In most jurisdictions, management of site contamination is also addressed through the relevant planning legislation. Therefore, in addition to the Bill, it is intended that site contamination will be addressed through the land use planning process under the current *Development Act 1993*. Where an application is made to the relevant development authority, such as a local council, for a sensitive land use on a site that has a history of a prescribed contaminating activity having occurred, the application will need to be supported by a site contamination audit undertaken by an accredited auditor.

This link to the development process was consulted on at the same time as the draft Bill was released for public comment.

The Bill and the proposed changes to the development process will provide certainty to the property market, where the current lack of legislation causes uncertainty in that councils take varying approaches when considering development applications where site contamination may be an issue.

It is often asserted that the assessment and remediation of site contamination is an impost on development. In fact, remediation of contaminated land has led to substantial leveraging of development and enhanced property values of previously derelict land, both within Australia and internationally.

In South Australia, there are numerous examples of remediation works enabling the development of contaminated sites that could not otherwise have been redeveloped. These include the former Mile End rail yards that were remediated at a cost of $6 million, and now are the site for athletic and netball stadiums as well as approximately 30 new residential allotments. The Port Adelaide Waterfront redevelopment, where LMC is undertaking the remediation work at a cost of $40 million has enabled the $1.5-2 billion development to progress.

This Bill is in the forefront of international best practice in the management of site contamination in a number of ways. First, it takes a risk-based approach to site remediation: that is, the response to managing a particular site is based on an evaluation of the degree of risk presented by the contaminants, which is linked to the land use of the site. The Bill also uses experts external to government for site contamination management, that is, assessment and remediation, through a system of accredited auditors. Independent auditors have been accredited under site contamination legislation in Victoria and NSW for a number of years, and will also be accredited under the new Western Australian legislation.

The Bill is also innovative in that it allows the liability and responsibility for the assessment and remediation of a contaminated site to be assigned to the person who caused the contamination—this is consistent with the polluter pays principle established under the Australia and New Zealand Environment and Conservation Council (ANZECC) and agreed to by all governments in 1994. Importantly,

this Bill allows full or partial liability to be transferred from one person to another through the purchase or transfer of land where there is a genuine arms length transaction.

In many cases, the owner of a contaminated site may decide to have the site remediated. The Bill recognises such voluntary proposals and enables a person to avoid being served with an order.

As site contamination is historical pollution that may have occurred before the commencement of the Environment Protection Act, the provisions of the Bill need to have retrospective as well as prospective operation. While retrospectivity is generally avoided in legislation, it is clear that in this instance the legislation needs to apply retrospectively in order to hold the person who caused the contamination responsible for the assessment and remediation of contaminated land. The need for the legislation to be retrospective was acknowledged in submissions received through consultation on the draft Bill.

There are only a few additional powers in the Bill to be given to the EPA to manage site contamination, and these are similar to existing powers of the EPA under the current Act to issue clean up orders or environment protection orders. The EPA will, under this Bill, have the ability to serve a site contamination assessment order, which requires a person to undertake an assessment of the nature and extent of contamination on a site, and a site remediation order, which requires a person to remediate a site. Remediation does not necessarily mean the total clean up of the site. Rather, using the risk-based approach, a site may have the majority of contaminants removed, with the remaining contaminants being managed on-site.

In the first instance, an order is served on the person who caused the site contamination. Under certain circumstances, however, if the order cannot be served on that person, the order is served on the owner of the site. This can be done if the person, before acquiring the site, was aware or ought reasonably to have been aware of the contamination or the contaminating activity, or, while the person was owner, was aware or ought reasonably to have been aware that the contaminating activity was being carried on and the activity is a particular kind of activity prescribed by the regulations.. By and large, this reflects practice in the other jurisdictions.

The third additional power to be given to the EPA is the ability to partially or fully prohibit the taking of water affected by site contamination. This is a necessary power for when the EPA becomes aware that certain water, in particular groundwater, is contaminated and poses an unacceptable risk to public health.

In summary, the main features of the Bill are:

- the legislation is retrospective as the Act does not apply before 1995, when it came into operation
- enables the EPA to serve site contamination assessment orders or site remediation orders on the appropriate person
- it defines the appropriate person as either the original polluter or the owner of the site having a degree of knowledge about the contamination
- allows the legal transfer of full or partial responsibility for site contamination on the sale or transfer of land from vendor to purchaser subject to agreements
- establishes a mechanism to accredit site contamination auditors.

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 *Environment Protection Act 1993*

4—Amendment of section 3—Interpretation

This clause introduces new terms into, and modifies current definitions in, the Act. The terms are:

- ***appropriate person***—the reader is referred to Part 10A for a definition of this term. Essentially, if site contamination exists or is suspected of existing at a site, the Authority identifies an ***appropriate person*** who may then be issued with a site contamination assessment order or site remediation order to address the site contamination. The details of this process are provided for in new Part 10A, particularly Division 2;
- ***background concentrations***—this term is used in the definition of ***site contamination*** in new section 5B. One of the elements supporting the existence of site contamination on a site or below its surface is that chemical substances must be present at the site in concentrations above background concentrations. Background concentrations of substances are ascertained by carrying out assessments of the presence of the substances in the vicinity of the site in accordance with guidelines from time to time issued by the Authority;
- ***cause*** site contamination—the reader is referred to section 103D for a definition of this term;
- ***chemical substance***—this term means any organic or inorganic substance, whether a solid, liquid or gas (or combination thereof), and includes waste. Under new section 5B, if chemical substances are present at a site above background concentrations, this may be one indicator of the existence of site contamination at a site;
- ***holding company*** has the same meaning as in the *Corporations Act 2001* of the Commonwealth. In that Act it means, in relation to a body corporate, a body corporate of which the first body corporate is a subsidiary. This term is relevant in this Bill where a body corporate attempts to avoid its obligations under a site contamination assessment order or site remediation order, or attempts to avoid its being issued with an order, in which case the Authority may apply for a court order that a director or other person concerned in the management of the company or of a holding company of the body corporate is an appropriate person to be issued with an order;
- ***liability*** for site contamination—this term is used throughout the Bill and means—
  - liability to be issued with an order under Part 10A in respect of the site contamination; or
  - liability to pay an amount ordered by the Court under Part 11 in respect of the site contamination;
- ***remediate*** a site means treat, contain, remove or manage chemical substances on or below the surface of the site so as to—
  - eliminate or prevent actual or potential harm to the health or safety of human beings that is not trivial, taking into account current or proposed land uses; and
  - eliminate or prevent, as far as reasonably practicable—

  (i) actual or potential harm to water that is not trivial; and

  (ii) any other actual or potential environmental harm that is not trivial, taking into account current or proposed land uses,

  and ***remediation*** has a corresponding meaning;
- ***sensitive use***—the suitability of a site for a sensitive use is one of the matters that may be addressed in a ***site contamination audit*** relating to a site. ***Sensitive use*** means—
  - use for residential purposes; or
  - use for a pre-school within the meaning of the *Development Regulations 1993*; or
  - use for a primary school; or
  - use of a kind prescribed by regulation;
- ***site*** means an area of land (whether or not in the same ownership or occupation);
- ***site contamination***—the reader is referred to new section 5B for a definition of this term;
- ***site contamination assessment order*** means a site contamination assessment order under Part 10A;
- ***site contamination audit*** means a review carried out by a person that—
  - examines assessments or remediation carried out in respect of known or suspected site contamination on or below the surface of a site; and
  - is for the purpose of determining any 1 or more of the following matters:
    - the nature and extent of any site contamination present or remaining on or below the surface of the site;
    - the suitability of the site for a sensitive use or another use or range of uses;
    - what remediation is or remains necessary for a specified use or range of uses;
- ***site contamination auditor*** means a person accredited under Division 4 of Part 10A as a site contamination auditor;

· ***site contamination audit report***, in relation to a site contamination audit, means a detailed written report that—

· sets out the findings of the audit and complies with the guidelines from time to time issued by the Authority; and

· includes a summary of the findings of the audit certified, in the prescribed form, by the site contamination auditor who personally carried out or directly supervised the audit;

· ***site contamination audit statement*** means a copy (that must comply with the regulations) of the summary of the findings of a site contamination audit certified, in the prescribed form, by the site contamination auditor who personally carried out or directly supervised the audit;

· ***site contamination consultant*** means a person other than a site contamination auditor who, for fee or reward, assesses the existence or nature or extent of site contamination;

· ***site remediation order*** means a site remediation order under Part 10A;

· ***water***—this definition replaces the current definition of water. The proposed definition is:

· water occurring naturally above or under the ground; or

· water introduced to aquifers or underground areas (eg for storage and later retrieval); or

· an artificially created body of water or stream that is for public use and enjoyment.

5—Insertion of section 5B

This clause inserts new section 5B which contains a definition of site contamination.

5B—Site contamination

Subclause (1) explains what factors are required for site contamination to exist at a site. Most significantly, site contamination will not be assessed as an absolute, rather it is measured against the following factors:

· whether chemical substances have been introduced to a site (ie as opposed to occurring naturally); and

· whether those chemical substances are present above background concentrations; and

· whether harm (of various stated kinds and levels) is caused or threatened given the current or proposed land uses.

Subclause (2) further explains that environmental harm may be caused by chemical substances whether the harm is a direct or indirect result of the chemicals or whether the harm results from the chemicals alone or a combination of the chemicals and other factors.

Subsection (3) enables the regulations made under the Act to provide that, in certain situations, site contamination will be taken not to exist at a site.

6—Amendment of section 10—Objects of Act

This clause amends the objects section of the Act to include a reference to the site contamination provisions contained in this Bill.

7—Insertion of section 83A

This clause inserts new section 83A.

83A—Notification of site contamination of underground water

This new section makes it an offence not to notify the Authority of contamination or threatened contamination of underground water which comes to the attention of an owner or occupier or a site contamination auditor or consultant. Failure to so notify is an offence attracting a maximum penalty for a body corporate of $120 000, or for a natural person, $60 000. A person is excused from compliance with the section if the person has reason to believe the Authority is already aware of the site contamination, but on the other hand must comply with the provision even if to do so might incriminate the person or make the person liable to a penalty. However, a notification given by a person may not be used in evidence in proceedings for an offence or the imposition of a penalty, other than in proceedings for the making of a false or misleading statement.

8—Amendment of section 84—Defence where alleged contravention of Part

This clause adds another exception to the defence at section 84(1a), so that, in proceedings alleging contravention of Part 9 of the Act, it is possible to rely on several defences provided for in subsection (1) unless certain circumstances apply including, now, that the property harmed comprises water occurring naturally above or under the ground or water introduced to an aquifer or other area under the ground or the pollution resulted in site contamination.

9—Amendment of section 87—Powers of authorised officers

This clause adds to section 87 circumstances in which an authorised officer may exercise the power of entry, namely where the exercise of the power is reasonably required for the purposes of assessing the existence or causes of known or suspected site contamination.

10—Amendment of section 88—Issue of warrants

This clause enables a justice to issue a warrant if satisfied that there are reasonable grounds to believe that site contamination may exist in a place or something may be found in a place that constitutes evidence of a cause of site contamination.

11—Insertion of Part 10A

This clause inserts new Part 10A.

Part 10A—Special provisions and enforcement powers for site contamination

Division 1—Interpretation and application

103A—Interpretation

The term "***occupier***" is defined as having the meaning assigned to the word under the general interpretation section of the principal Act, but also meaning a person of a kind prescribed by regulation. This will be mainly relevant in the context of the Authority determining who the person is who caused site contamination in relation to land under Division 2. Under this section it will be possible to let the regulations deem a person to be the occupier in unusual situations. In some situations, for example, where there are franchise arrangements, it is unclear precisely who is the occupier of land and hence who should be taken to have caused site contamination. Another example that might be addressed by this provision is where a person, though not in lawful occupation of land, has stored contaminating materials on the land and should be treated as an occupier under the Part.

103B—Application of Part to site contamination

This section makes it clear that the provisions of new Part 10A have retrospective and prospective effect.

Division 2—Appropriate persons to be issued with orders and liability for site contamination

103C—General provisions as to appropriate persons

This section contains the key concept of the Bill: if site contamination exists or is suspected of existing at a site, the Authority identifies an appropriate person to be issued with a site contamination assessment order or site remediation order in respect of the site. The appropriate person may be the person who caused the site contamination or, if it is not practicable to issue the notice to that person (because the person has died, cannot be identified or located or is without means, or, in the case of a body corporate, has ceased to exist) the appropriate person is the owner of the site provided that that person, before acquiring the site, had a degree of knowledge about the contamination or contaminating activity (the range of which are to be prescribed in the regulations) or, while the person was owner, had a degree of knowledge that a contaminating activity (again, a limited range prescribed in the regulations) was being carried on. One qualification is, however, that if the Authority only suspects that site contamination exists at a site because a potentially contaminating activity of a prescribed kind has taken place there, the appropriate person to be issued with an assessment order is not (and cannot be, due to it being a mere suspicion) the person who caused the site contamination, but rather the owner of the site.

103D—Causing site contamination

This section explains what is meant by "causing site contamination"- a term used in section 103C. A person is taken to have ***caused*** site contamination if the person was the occupier of land when there was an activity at the land that caused or contributed to the site contamination.

A person can also cause site contamination at a site if the person brought about a change of use of the site, for example,

from an industrial site to a dwelling, however a relevant authority that grants a consent or approval for a change of use under the *Development Act 1993* will not by that action be regarded as having brought about a change of use. The Bill contemplates that more than one person may have caused site contamination, for example, 2 or more persons may have caused the site contamination at the same time or at different times.

103E—Liability for site contamination subject to certain agreements

This section allows persons (including companies) to sell or transfer their liability for all or a specified part of the site contamination in which case the purchaser or transferee assumes the liability as if they had caused the site contamination (and consequently would be the appropriate person to be issued with an order under section 103C(1)(a)). This provision covers sales or transfers taking place before or after the commencement of the Act or Part 10A. Certain qualifications apply, namely, the agreement has to be in writing and, in the case of agreements entered into after the commencement of Part 10A, the person has to have first given the purchaser or transferee a notice setting out the legal effect of the agreement and lodged the agreement with the Authority. One possible obstacle to being able to rely on such an agreement is a determination by the ERD Court, on application by the Authority, that the purchaser or transferee did not acquire the land in a genuine arms length transaction. A genuine arms length transaction is one in which there is no special duty, obligation or relationship between the parties to the transaction in which one party is under a duty to act for the benefit of the other.

103F—Order may be issued to one or more appropriate persons

This section enables the Authority, if there are 2 or more persons to whom it is practicable to issue an order as appropriate persons, to determine that any one of those persons is the appropriate person to be issued with the order or that 2 or more of the persons are the appropriate persons to be issued with the order (and are consequently jointly and severally liable to comply with the requirements of the order). If persons are jointly and severally liable, each person is liable alone to carry out the obligations contained in the order in full as well as being jointly liable to do so with the others, and if the obligations are not so carried out, each can be prosecuted separately as well as in a joint action.

103G—Court may order that director of body is appropriate person in certain circumstances

Under this section, if a body corporate has been issued with an order under Division 3 or might be issued with such an order and there is reason to believe that the body corporate is being wound up, stripped of assets or subjected to other action in order to avoid being issued with an order or meeting its obligations under an order, the Authority may seek an order from the ERD Court declaring the director or manager of the body corporate or its holding company to be the appropriate person in certain circumstances.

Subsection (2) deems certain situations to satisfy the "reason to believe" test, namely—

(1) where the body corporate is being or has been wound up, has carried out one of three possible types of transactions under the *Corporations Act 2001* of the Commonwealth (being transactions which could be informally described as opportunistic), and at the time of the transaction, there was reason to believe that site contamination may exist at the site;

(2) where a holding company of the body corporate has contravened section 588V of the *Corporations Act 2001* of the Commonwealth in relation to the body corporate (ie the holding company or a director of the holding company suspects or is aware that the body corporate is or will become insolvent while trading) and there was at the time of the contravention reason to believe that site contamination may exist at the site;

(3) where the site has been transferred to a related body corporate in circumstances where proper remediation of the site would likely render the body corporate insolvent and there was, at the time of the transfer, reason to believe that site contamination may exist at the site.

However, this is not an exhaustive list: the section contemplates that there may be other circumstances leading the Court to find that test satisfied.

The Court must not make an order against a person if the person can satisfy the Court that he or she had no knowledge of the scheme, was not in a position to influence the execution of the scheme or used all due diligence to prevent pursuit of the scheme by the body corporate.

The Court may make an order even though the body corporate took steps to remediate the site.

Division 3—Orders and other action to deal with site contamination

103H—Site contamination assessment orders

This section sets out when a site contamination assessment order may be issued, what form it must be in and what it must or may require.

For the Authority to be able to issue such an order to a person, it must either be satisfied that site contamination exists at a site or suspect that it exists because a potentially contaminating activity of a kind prescribed by regulation has taken place there.

Subsection (2) sets out the form that such an order must be in, that assessment must be required, that a report of the assessment must be required, and also several other matters that the Authority has the discretion to require under such an order, namely that specially qualified persons be engaged to carry out certain requirements, that a site contamination audit be carried out, and that specified consultations be carried out with owners of land in the vicinity of the site. In addition, the order must state that the person may, within 14 days, appeal to the ERD Court against the order.

Subsection (3) makes it clear that, if the order is issued to an appropriate person as owner rather than as the person who caused the site contamination, the order must be limited in its application to site contamination on or below the surface of the site (and not other land in other ownership to which the site contamination may have spread). In other words, an order so issued cannot require a person to take action in respect of land of which the person is not the owner.

Under subsection (4), if an activity required under an order is an activity that would require a permit under section 129 of the *Natural Resources Management Act 2004*, the Authority must notify the authority under that Act inviting the authority to comment on the proposal.

Subsection (6) requires a person to whom an order is issued to comply with the order, with failure to do so an offence attracting a maximum fine of $120 000 for a body corporate or $60 000 for a natural person.

A person may not refuse or fail to provide information required by an order on the ground that it might incriminate the person or make the person liable to a penalty.

However, any such incriminatory information provided by the person is not admissible in evidence in proceedings unless the proceedings relate to the making of a false or misleading statement.

103I—Voluntary site contamination assessment proposals

This section enables a person to obtain the Authority's agreement not to issue the person with a site contamination assessment order if the person undertakes to carry out an assessment in accordance with an approved voluntary site contamination assessment proposal. In this way, the person avoids being issued with an order and possible subsequent registration of the order against their title. Once the assessment has been carried out to the satisfaction of the Authority, the Authority notifies the person of that fact and the person may subsequently pursue other persons through the Court for payment of the whole or portion of the costs in the same way as if the assessment had been carried out under a site contamination assessment order.

103J—Site remediation orders

This section sets out when a site remediation order may be issued, what form it must be in and what it must or may require.

For the Authority to be able to issue such an order to a person, it must be satisfied that site contamination exists at a site and it must consider that remediation of the site is required, taking into account current or proposed land uses.

Subsection (2) sets out the form that such an order must be in, and what things the Authority may require, for example, remediation of the site within a specified period, plans of remediation, authorisation for remediation of the site on behalf of the Authority by authorised officers, written reports of the remediation, the appointment of specially qualified persons to prepare plans of remediation or written reports or to carry out the remediation, site contamination audits and specified consultations with owners of land in the vicinity of the site. In addition, the order must state that the person may, within 14 days, appeal to the ERD Court against the order.

Subsection (3) makes it clear that if the order is issued to an appropriate person as an owner of the site rather than as a person who caused the site contamination, the order must be limited in its application to site contamination on or below the surface of the site (and not other land in other ownership to which the site contamination may have spread). In other words, an order so issued cannot require the person to take action in respect of land of which the person is not the owner.

Under subsection (4), if an activity required under an order is an activity that would require a permit under section 129 of the *Natural Resources Management Act 2004*, the Authority must notify the authority under that Act inviting the authority to comment on the proposal.

Authorised officers are given the power to issue an ***emergency site remediation order*** (which may be issued orally) if of the opinion that urgent action is required for remediation of a site. However, if such an order is issued, it is only valid for 72 hours unless confirmed by a written site remediation order issued by the Authority.

A site remediation order may also require a person to do something that may otherwise constitute a contravention of the Act, however, in that case, the person will incur no criminal liability if the person complies with the requirement.

Subsection (11) makes failure to comply with an order an offence attracting a maximum fine of $120 000 for a body corporate or $60 000 for a natural person.

A person may not refuse or fail to provide information required by an order on the ground that it might incriminate the person or make the person liable to a penalty.

However, any such incriminatory information provided by the person is not admissible in evidence in proceedings unless the proceedings relate to the making of a false or misleading statement.

103K—Voluntary site remediation proposals

This section enables a person to obtain the Authority's agreement not to issue the person with a site remediation order if the person undertakes to carry out remediation in accordance with an approved voluntary site remediation proposal. In this way, the person avoids being issued with an order and possible subsequent registration of the order against their title. Once the remediation has been carried out to the satisfaction of the Authority, the Authority notifies the person of that fact and the person may subsequently pursue other persons through the Court for payment of the whole or portion of the costs in the same way as if the remediation had been carried out under a site remediation order.

103L—Entry onto land by person to whom order is issued

This section provides that entry onto land and the carrying out of activities on land under an order by the person to whom the order was issued may not be done without the prior permission of—

- the occupier; and
- the owner unless—
- the order has been issued to the owner; or
- the occupier (whose permission will have been obtained) is also the owner.

However, if the occupier or owner withhold or withdraw such permission, they become liable to be issued with the order instead.

If an order is issued to the occupier or owner in those circumstances, the Act applies as if no person other than the person issued with the order has liability for site contamination described in the order in respect of the land. In other words, liability of any other person for the site contamination in respect of that land up until that point can be regarded as having been extinguished.

103M—Liability for property damage etc caused by person entering land

This section makes it clear that a person who enters or does anything on land to carry out the requirements of a site contamination assessment order, a site remediation order, an approved voluntary site contamination assessment proposal or an approved voluntary site remediation proposal is liable for any resulting damage to property or other losses suffered by the occupier, and liable for resulting damage to land or other property or other losses suffered by the owner. A person who incurs such a liability must minimise and make good the damage or loss, or if that is not practicable, compensate the occupier or owner. Proceedings for the recovery of compensation are to be brought before the ERD Court.

103N—Special management areas

This section enables the Authority, if it believes that widespread site contamination exists or that site contamination exists in numerous areas as a result of the same activity, to declare areas to be special management areas. Once an area or areas are so declared, the Authority conducts a program consisting of publicising the issue, setting up consultative processes between itself and relevant interest groups and endeavouring to bring about environment performance agreements (under the principal Act) or other voluntary agreements to deal with the site contamination.

103O—Registration of site contamination assessment orders or site remediation orders in relation to land

This section enables the Authority to apply to the Register-General to register site contamination assessment orders or site remediation orders against land. This provision is similar to that in the principal Act allowing for registration against land titles of environment protection orders and clean-up orders or authorisations.

The effect of registration of an order is either or both of the following (as the Authority decides):

- the order will become binding on each successive owner of the land;
- the registration of the order against the land will operate as the basis for a charge on land owned by the person to whom the order was issued, securing payment to the Authority in taking action required under the order in the event of non-compliance by the person with the order or other reasons.

The section sets out other requirements including an obligation on an owner of land who was issued with a site contamination assessment order or site remediation order and who ceases to be owner to notify the Authority of the new owner (failure to so notify attracts a penalty of $4 000) and an obligation on the Authority to notify each owner of registration and the obligations that such registration entails.

Further provisions in this section deal with cancellation of the registration of orders. Subsection (8) empowers the Authority to apply to the Registrar-General for cancellation if it thinks fit but also requires the Authority to do so—

- on revocation of the order; or
- on full compliance with the requirements of the order; or
- if the Authority takes action to carry out the requirements of the order—on payment to the Authority of the amount recoverable for that action.

103P—Notation of site contamination audit report in relation to land

This section requires a notation to be made against the title of relevant land of any site contamination audit reports relating to the land. The notation is to state that a site contamination audit report has been prepared in respect of the land and is to be found in the register kept by the Authority under section 109 of the principal Act.

A notation is to be removed on application to the Registrar-General by the Authority.

103Q—Action on non-compliance with site contamination assessment order or site remediation order

This section enables the Authority (or an authorised officer or another person under certain circumstances) to carry out the requirements of a site contamination assessment order or site remediation order if the person to whom the order is issued fails to carry it out him or herself.

103R—Recovery of costs and expenses incurred by Authority

If a person fails to comply with an order (whether site contamination assessment order or site remediation order), or the order requires the Authority to itself take action, this section enables the recovery of reasonable costs and expenses incurred by the Authority in carrying out the requirements of the order as a debt from the person to whom the order was issued. The amount owed together with interest is a charge in favour of the Authority over the land in respect of which the order is registered and has priority over any charge over the land in favour of an associate of the person or any other charge registered after the registration of the order.

103S—Prohibition or restriction on taking water affected by site contamination

This section enables the Authority to prohibit or restrict the taking of water that is affected or threatened by site contamination if necessary to prevent actual or potential harm to human health or safety. This prohibition or restriction must be done by notice in the Gazette. If a person contravenes such a notice, the person commits an offence attracting a maximum fine of $8 000.

Division 4—Site contamination auditors and audits

103T—Application of Division

This section applies to site contamination audits, audit reports and audit statements whether or not required under this or any other Act (ie whether or not required by statute).

103U—Requirement for auditors to be accredited

This section is the key accreditation provision and prohibits a person from carrying out a site contamination audit unless the person is a site contamination auditor (defined in clause 4 as a person accredited under Division 4 as a site contamination auditor) or unless the person carries out the audit through the instrumentality of a site contamination auditor who personally carries out or directly supervises the work involved in the audit. The maximum penalty for contravening or failing to comply with this section is $15 000.

103V—Accreditation of site contamination auditors

This section provides that only natural persons may be accredited as site contamination auditors, hence, companies are not accredited. Subsection (2) sets out the regulation making powers relating to accreditation of site contamination auditors. Subsection (3) enables persons of a specified class (for example, persons with certain qualifications and experience) to be deemed to be accredited under the Division as long as they comply with requirements specified in the regulations.

103W—Illegal holding out as site contamination auditor

This section prohibits a person from holding himself or herself out as a site contamination auditor if the person is not accredited as such under the Division, and also prohibits a person from holding out another person as a site contamination auditor if that other person is not so accredited. In each case, contravention is an offence attracting a fine of $15 000.

103X—Conflict of interest and honesty

This section contains provisions relating to the conduct that is expected of persons who may carry out site contamination audits (being site contamination auditors and persons who carry out such an audit on behalf of another through the instrumentality of a site contamination auditor). Such a person must not, unless authorised by the Authority in writing, carry out a site contamination audit—

- if the person is an associate of another person by whom any part of the site is owned (***associate*** is defined in the principal Act and includes persons in close relationship whether by being related, by business or other arrangement);
- if the person has a direct or indirect pecuniary or personal interest in the site or in an activity at the site;
- if the person has been involved in, or is an associate of another person who has been involved in, assessment or remediation of site contamination at the site;
- on the instructions of, or under a contract with, a site contamination consultant who has been involved in the assessment of site contamination at the site.

The maximum penalty for contravening this section is $4 000 or 1 year imprisonment.

In addition, such a person is prohibited from making a false or misleading statement in or in relation to a site contamination audit, audit report or statement.

Contravention of the section is an offence attracting a maximum penalty $60 000 for a body corporate or $30 000 or imprisonment for 1 year for a natural person.

103Y—Annual returns and notification of change of address etc

In this section and the next, we see the introduction of the term ***responsible auditor***. The obligation to furnish the Authority with a return is placed on the responsible auditor, being the site contamination auditor who carried out the audit personally or supervised the audit. This term was introduced in the absence of an obligation on companies to carry out the obligation.

The return must list each audit commenced, in progress, completed or terminated before completion during a particular recent period. Such a return must be furnished during the ***prescribed period***, being the period commencing 8 weeks before and ending 4 weeks before the anniversary of the date of accreditation or last renewal. An auditor must also notify the Authority within 14 days of a change of address or any other change relating to his or her activities as an auditor that affects the accuracy of particulars last furnished to the Authority. Failure to comply with any of these requirements is an offence attracting a maximum penalty of $8 000.

103Z—Requirements relating to site contamination audits

This section requires the responsible auditor to notify the Authority (in the prescribed form) within 14 days of—

- commencing a site contamination audit, of the person who commissioned the auditor and the location of the land involved; or
- terminating an audit before its completion (including the reasons for termination).

A responsible auditor is also required, on completion of a site contamination audit, to—

- provide a site contamination audit report to the person who commissioned the audit; and
- at the same time, provide a site contamination audit report to the Authority and a site contamination audit statement to the council for the area in which the land is situated and any prescribed body.

Failure to comply with either of these requirements is an offence attracting a maximum penalty of $8 000.

Division 5—Reports by site contamination consultants

103ZA—Reports by site contamination consultants

This section requires a site contamination auditor or site contamination consultant, in any written report prepared in relation to a site, to clearly qualify any statement of opinion in the report as to the existence of site contamination at the site by specifying the land uses that were taken into account in forming that opinion. This section is intended to address the making of claims in reports that site contamination does not exist in isolation of context. Failure to comply with this provision is an offence attracting a maximum penalty of $8 000.

103ZB—Provision of false or misleading information

This section makes it unlawful to provide false or misleading information to site contamination auditors or site contamination consultants that might be relied on by such auditors or consultants in the preparation of reports about site contamination with maximum penalties of $60 000 for a body corporate and $30 000 for a natural person.

12—Amendment of section 104—Civil remedies

This clause enables a person who has incurred costs and expenses in carrying out the requirements or reimbursing the Authority in pursuance of a site contamination assessment order or a site remediation order to apply to the ERD Court for payment of the whole or portion of the costs and expenses against one or more persons who caused the site contamination.

13—Amendment of section 106—Appeals to Court

A person to whom a site contamination assessment order or site remediation order is issued may appeal to the ERD court against the order or variation of the order within 14 days after the issuing of the order or the making of the variation.

14—Amendment of section 109—Public register

This clause adds a number of matters for inclusion in the public register, namely:

· details of site contamination notified to the Authority under section 83A;

· details of any environment protection order, clean-up order, clean-up authorisation, site contamination assessment order or site remediation order issued under the Act and of—

· any action taken by the person to whom the order was issued or by the Authority or another administering agency in consequence of the order; and

· any report provided by the person to whom the order was issued in consequence of the order;

· details of each agreement for the exclusion or limitation of liability for site contamination to which section 103E applies;

· details of each agreement entered into with the Authority relating to—

(a) an approved voluntary site contamination assessment proposal under section 103I; or

(b) an approved voluntary site remediation proposal under section 103K;

· details of the circumstances giving rise to—

(i) declarations of special management areas under section 103N; or

(ii) prohibitions or restrictions on taking water under section 103S;

· details of each notification relating to the commencement or the termination before completion of a site contamination audit under section 103Z;

· each site contamination audit report submitted to the Authority under section 103Z.

Mrs REDMOND secured the adjournment of the debate.

SUMMARY PROCEDURE (PAEDOPHILE RESTRAINING ORDERS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 12 September. Page 808.)

The Hon. M.J. ATKINSON (Attorney-General): I have nothing further to add, and I commend the bill to the house.

Mrs REDMOND (Heysen): I indicate that I am the lead speaker, but I do not intend to hold the house very long in relation to this bill. It comes to this house having already received the support of both the government and the Liberal Party in the upper house. It surprised me somewhat that it was introduced here as a government bill. Given that it is the bill of the Hon. Dennis Hood in the other place, I would have thought that it would appear on our private members' list. However, I am more than happy that it be dealt with because, as I said, both the major parties have already given their support to it.

Basically, the Hon. Dennis Hood wanted to amend the Child Sex Offenders Registration Bill, which was passed by parliament in about November last year. In September the Hon. Dennis Hood introduced this bill and originally wanted to move it as amendments to that legislation. After discussion with the Attorney-General, he decided to withdraw his amendments at that time in order to allow the Child Sex Offenders Registration Bill to pass unchanged and as quickly as possible but with an assurance from the Attorney-General—and the Attorney-General has honoured his assurance given at that time—to give this bill favourable consideration. Indeed, it has had the support of the government, as well as the Liberal Party.

The main effect of this bill is to amend sections 99AA and 99AAB of the legislation. First, it allows paedophile restraining orders to restrict a defendant's use of the internet, either entirely and forever or in some specified manner and for a limited time. Secondly, it provides the police with power to raid premises occupied by the defendant at any time (but only once a year) to search, or to confiscate for searching, a defendant's computer or other electronic storage device, and it gives police power to use such force as may be necessary to do that. There will be some questions about the enforcement and use of that provision. Whilst it talks about the premises that can be occupied by the defendant, it does not seem to control a defendant's use of internet sites that might be accessed in internet cafes or workplaces. Those areas are covered by other legislation, but in terms of the actual search, entry and seizure provisions this does not go further than allowing a raid once per year at an unspecified time on a defendant's usual place of occupation. It allows police to either search an electronic device or computer at the premises or take it away so that a specialist could look at it.

The Liberal Party decided that it would not only support the bill as originally introduced by the Hon. Dennis Hood but also seek to expand the class of persons who could be subject to an order under section 99AA(1)(a) to include internet loiterers. We had a bit of discussion with parliamentary counsel about who is an internet loiterer. Ultimately, it was decided that loitering was the appropriate term to use, even though there was some concern that the use of the word 'loiterer' could inadvertently catch innocuous activity, such as activity by someone who did not have a prurient purpose in looking on the internet at particular pictures.

It was felt that there are two safeguards against innocuous behaviour being caught. First, any communication over the internet had to be not for a good reason in order to be caught by the provision and, secondly, paragraph (c) requires the court to be satisfied that the making of the order is appropriate in the circumstances. If it is innocuous behaviour one could assume that a court would not be satisfied that it was loitering within the terms of what is commonly understood. It was ultimately amended to reflect that, so we now have this concept within this legislation to say that internet loitering is also going to be caught and internet loiterers could have orders made against them in terms of not being allowed to access computers and use the internet.

So, as I said, there will be variations on who might be subject to an order, and there will be variations in orders themselves as to whether they are for life or a relatively short time. There can also be variations in terms of whether an order is going to be an absolute prohibition on use of the internet or whether there could be supervised access, for instance, of someone who could maintain a job which might involve using the internet provided they were supervised so they could not use the internet for any inappropriate purpose.

In my view, a lot of this stuff is going to have to be worked out over time because, clearly, when we introduced the original laws relating to child sex offenders, we did not have an internet and, in order to participate in offences against children, you basically needed physical contact. But, now, with the advent of the internet, we have all sorts of complex issues and concepts arising which we really have not managed to come to terms with completely, and I expect we will be revisiting these issues over a number of years as case law develops and problems are thrown up by the very fact that the internet has become so widespread that it has made access to children much easier and our children are not yet as aware of stranger danger via the internet as they have been made aware of stranger danger in the normal street setting.

So, I believe that it will be necessary for us to come back again and again to a number of these concepts as we develop this area of the law in regard to the internet and these problems of child sex offenders. I simply say that I am very pleased to be here supporting the proposal put forward by the Hon. Dennis Hood in the other place and that it has, happily, had quite speedy passage—hopefully, through both houses—and will become part of our law in a very prompt fashion.

The Hon. M.J. ATKINSON (Attorney-General): The only comment I want to add is that, although this was a private member's bill in another place, the government thought it was worthy of going into government time in the House of Assembly. We had enough space on the government program for such a meritorious bill. We have done this before with private members' bills. Members may recall that the hoon driving law was not a government bill but a bill of the member for Fisher. Similarly, in regard to the drug implements bill of the Hon. Ann Bressington, should it pass the other place, despite the strong opposition of the Democrats and the Greens, I would be happy to give it government time here in the assembly, provided there is space on the government program. The Rann government does not claim to have a monopoly on good ideas. If private members come up with meritorious proposals, not only will we support them but, also, if it is possible, we will give them government time to speed their passage.

Bill read a second time and taken through its remaining stages.

ADJOURNMENT DEBATE

The Hon. M.J. ATKINSON (Attorney-General): I move:

That the house do now adjourn.

WATER SECURITY

Mr VENNING (Schubert): Today I rise to speak about the state's water infrastructure, or lack thereof, as the water crisis facing South Australia has gone from grim to desperate. I have been pushing for the past five years for alternative means of water supply to be implemented in South Australia, anything from desalination plants to water recycling—in fact anything to relieve our reliance on the River Murray system and rainfall that is not forthcoming. What has this government done? Nothing. Now I can say that we told you so.

I have raised this matter on many previous occasions in this house over the past seven years. In 2001 I spoke in support of the then minister for water, Mark Brindal, on his paper on waterproofing Adelaide. It was always going to happen. The state has now reached crisis point with environmental experts predicting that the drought will or could continue for the next 10 years. As I said after question time today, people's livelihoods are at stake. What has the Rann Labor government done? Nothing. Talk, posturing and reporting but, as to action, nothing. No decisions have been made yet.

This government, instead of being proactive when it was elected to power in constructing the desperately needed infrastructure to secure water for South Australia in the future, preferred to impose ridiculous water restrictions. Look where that has left us. We are behind most states in the country in regard to water. We should be first not last. After all, we are the driest state in the driest country in the world. Shouldn't we be putting in place infrastructure to permanently secure a water supply for our state rather than continuing to drain the River Murray of every last drop? The situation this state is in now—that is, in a complete and utter water crisis—is indicative of the Rann Labor government's incompetence and demonstrates its failure to act over the last five years in regard to water.

The Hon. M.J. Atkinson interjecting:

Mr VENNING: It was always going to happen. The past five years have all been below average in rainfall. You knew but you just hoped it would go away. It has not; we have arrived. Just look at the 2007-08 budget. The Treasurer did not make any financial commitment to secure this state's water any time in the near future. The Rann Labor government is doing the people of South Australia a great injustice by failing to provide them with infrastructure to secure their water supply in the years to come. Now the state government says it will construct a desalination plant that will take five years to build. It should have been quicker off the mark in recognising the need for one. We are now the last in the queue.

Last year when the then opposition leader, Iain Evans, proposed a desalination plant for Adelaide, he was condemned by the government and accused of not doing his costings. Now the Premier at last makes an announcement that South Australia will get to have a desalination plant as the extent of the crisis and public pressure continue to worsen. I find it disgusting that the Rann Labor government continues to play the political game with such a serious issue—an issue which is claiming lives. Labor water security minister Karlene Maywald lists in her Water Resources Update Report of June 2007 that alternative water supply options are currently being implemented by the government. The measures the government is implementing include standpipes and water carting. These can hardly be considered supply measures that would have the same impact as, say, the desalination or water recycling plant. What is the government doing about this? After five years—still talking about it.

Action was needed five years ago to prevent the current water crisis, not now once it has been deemed the totally worst-case scenario that has ever happened. As I just said, in 2001 the previous government minister for water, Mark Brindal, wrote a paper: Waterproofing Adelaide. Adelaide's high risk position was obvious then, and should have been acted upon from 2002 when Labor took over. There was a lot of talk, as there continues to be from this government, regarding the cost of desalination. However, SA Water has been contributing about $400 million profit a year for the government. In 2006, instead of the government spending the money generated by SA Water on water infrastructure, $281 million of that revenue was put into general revenue, not water projects.

In the current crisis how can the state government justify this? Why was it not spent on water infrastructure, such as new pipelines, so that we do not waste water every time one bursts, and we have one of those almost weekly. I simply cannot understand the inaction demonstrated by this government on such a serious issue. The government has also tried to argue that the construction of a desalination plant will severely increase the cost of water to the consumer. Let's for one moment have a look at the example in Western Australia. Perth's desalination plant is powered by a wind farm totally powered by green energy. Even costing the green energy into it, the plant is producing water for about $1.16 a kilolitre.

That is equivalent to the current cost for higher water use above 125 kilolitres in South Australia. So who does the government think it is fooling with such claims?

South Australians are starting to get very angry, and I do not blame them. Labor minister Karlene Maywald states that work has begun on modifying the major pumps that supply Adelaide and country areas at a cost of $5 million. Why? Because if the river falls substantially, the pumps at their current height will no longer be able to reach and extract that water. It is a sick joke. Minister Maywald freely acknowledges that the Murray-Darling Basin is in the grip of the most severe drought that we have seen since this state was settled. What is the Rann Labor government doing? Spending $5 million to alter the pumps so that it can continue to take what little water supply is left.

The Rann Labor government, especially minister Maywald, keeps repeating that they are focusing on infrastructure, but none of the projects can be delivered in the next 12 months, so restrictions and conservation measures are needed so that we do not run out of water in the meantime. Why didn't the government act when it was elected to power in 2002? There has been much criticism from the Rann Labor government about what the Liberals did for water infrastructure when we were in power. I think that the Attorney-General has been harping on about that.

The Hon. M.J. Atkinson interjecting:

Mr VENNING: Well, I will just tell you. You invited me, and I will tell the Attorney-General. I will now list just a few of our achievements. The Liberal state government implemented a scheme with the federal government to fix the problems with the Lower Murray flood irrigation area. The Liberal government got the ball rolling with salt interception schemes to reduce inflows of saline water back to the River Murray, and they work. We brought about changes to the quality of drinking water for South Australians, and built a desalination plant on Kangaroo Island. When in government the Liberal Party worked on creating major pipelines out of Bolivar and Christies Beach, so that treated water was available for reuse for horticultural purposes. The Aldinga sewage treatment plant and the Loxton irrigation scheme were further projects undertaken by Liberal government to lessen water wastage.

The Liberal government got rid of all our open drains, and our irrigation schemes are the most efficient in Australia. No open leaking drains. No other state government can boast that. What is the current government doing? Nothing. At the same time the previous government provided filtered water to most of our country regions, including the Barossa Valley. It was disgrace that the Barossa had filthy water, but now it has pristine clear water, and the people in my region are so pleased about that. To say that the previous government did not do anything is just a gross distortion of the truth. We were doing all we could. Considering the State Bank problems, I think we did a huge amount of work.

We could do much more now with the money that this government has, but it chooses to do nothing. Now South Australia finds itself having to appeal to Victoria for help in dealing with our state's water crisis. What a joke! If the government had acted properly and invested in water infrastructure long ago, continuing on from works we did in government (as I just stated) and when other states were, we would not find ourselves having to crawl with our tail between our legs to beg other states for their water to meet our critical needs. It makes our government look foolish and incompetent to the rest of Australia—which is exactly what it is!

The President of the Victorian Farmers Federation said that the Victorian Premier's response to our state's request for water was harsh. He said:

> It was meant to be harsh in that for many years South Australia has been put on notice that they have to provide resources in their state to provide some catchment of water for their urban requirements—they haven't done that and we believe that it is an unfair expectation that we provide carryover water. . . for South Australia next year.

If that is not proof that our state is the laughing-stock of others in the country regarding how our government has handled the water crisis, then I do not know what is. The Labor Minister for Water Security says:

> Well I think it is just crucial that South Australia has to find a way to put some water away to meet our critical human needs the following year.

Once again, if the state government had implemented measures five years ago to increase our water supply, we would not have to be thinking in terms of the minimal level of water required to meet critical human needs because we would have enough. We would not have to be sealing off Lake Bonney as we did yesterday and today. What a disgrace for people living up there—and in the minister's electorate, too. If we had done the work, we would not have to be implementing drastic measures such as this. I really do feel for those people living in and around Lake Bonney and Barmera. It is a disgrace. They are really wearing the cost of this.

Responsible governments have to prepare for tough times and this crisis demonstrates that our state government—the Rann Labor government—is not prepared for anything. In an announcement earlier this month regarding the $2.5 million the state government pledges to now spend on a desalination plant and extending the reservoir, the Premier said that these options were 'the only real choices we have'. Well then, why did the government not act on those long ago? It was pretty clear from the time this government was elected that it was going to do nothing about it.

Time expired.

CONNOLLY, Mr T.

Mr PICCOLO (Light): I would like to bring to the attention of this house the death of a great South Australian and Australian. It was briefly reported in *The Advertiser* and *The Australian* yesterday. He was a person whom I came to know while at university, namely, the late Terry Connolly.

The Hon. M.J. Atkinson: A great bloke.

Mr PICCOLO: A great bloke.

The Hon. M.J. Atkinson: A top bloke.

Mr PICCOLO: A top bloke. I take this opportunity to extend my condolences to his family. Terry Connolly was appointed a judge of the Supreme Court of the Australian Capital Territory on 31 January 2003. Prior to this appointment, he was master of the ACT Supreme Court from February 1996 to January 2003. He was a member of the ACT Legislative Assembly for the Australian Labor Party from 1990 until he was appointed master, and he served in a range of ministerial portfolios, including attorney-general.

The Hon. M.J. Atkinson: An Alberton boy.

Mr PICCOLO: An Alberton boy; a Port supporter through and through.

The Hon. M.J. Atkinson: A member of the Australian Labor Party.

Mr PICCOLO: And a member of the Australian Labor Party. He was born in Adelaide in 1958. He was educated at Woodville High School and Adelaide University. He obtained an honours degree in law and a degree in politics and international relations. While at university, he was active in the Australasian Law Students Association, being national president in 1979 and, in the same year, he was also national president of Australian Young Labor. He also represented Australia in international law moot competitions. After completing his undergraduate studies at Adelaide University—this is where I came to know Terry because I was secretary and treasurer of the Labor Club in those days—

The Hon. M.J. Atkinson: But did you support him? Did you vote for him?

Mr PICCOLO: In those days, we had a very strong consensus in the club and we did not have some of the difficulties that the club has at this time. I was one who worked with all sections of the Labor Party. After completing his undergraduate studies, he worked for a year as associate to Justice John Gallop who was then a judge of the Federal Court and Supreme Court of the Northern Territory. Justice Gallop subsequently was appointed to the ACT Supreme Court. He was admitted as a barrister and solicitor in 1982, and then travelled to Canberra in 1983 to join the Department of Foreign Affairs as a legal adviser. He served as a legal adviser to the commonwealth government in a range of departments, including foreign affairs, attorney-general's department, veterans' affairs and the joint house department until being appointed to a casual vacancy in the ACT Legislative Assembly in 1990. During this period in the Commonwealth Public Service, he served as national secretary and then president of the Australian Government Lawyers Association.

At the time of his appointment to the Legislative Assembly he was counsel assisting the Solicitor-General and involved in numerous constitutional and international law litigations, including representing the commonwealth in the High Court. He completed a masters degree in constitutional law at the ANU in 1988 and taught that subject on a part-time basis at the university. As attorney-general for the ACT, he was involved in a range of significant law reform measures in the early years of self-government, including the transition of the courts to the ACT jurisdiction. He introduced diversionary conferencing, a restorative justice initiative and victim impact statements in criminal proceedings, and in 1994 introduced an ACT Bill of Rights.

I caught up with Terry two years ago when I attended a conference in the ACT on its first year of the operation of the Bill of Rights. As master, he exercised the functions of a judge in the court in civil and commercial matters and presided over hundreds of civil trials and motions. In 2001, he attended a course of mediation training at Harvard Law School and introduced a pilot mediation project in the Supreme Court to encourage early resolution of more complex cases. In October 2001, he was invited by the United Nations to attend a conference in Ottawa to draw up guidelines for restorative justice programs worldwide. He represented the Australian Capital Territory on a national panel developing uniform standards for the education and training of legal practitioners.

He was the chair of the ACT Joint Rules Advisory Committee (which is currently preparing uniform rules for civil procedure) and represented the ACT on national harmonised rules committees. He was the regional convenor for the National Judicial College of Australia. He served as ACT president of the Medico-Legal Society and was until his recent death president of the ACT Chapter of the International Commission of Jurists.

As members can see, Terry had a distinguished career in the law and a strong interest in human rights. It is no accident that Terry was married to Dr Helen Watchirs, the ACT Human Rights and Discrimination Commissioner. Not only was Terry a person who added a lot to the law in this country, in addition to being a great South Australian, but he was also a great human being. I remember my interaction with Terry quite fondly. He was a very polite and civil person and, while he was prepared to argue the point, he always respected the views of others. He will be sadly missed by his family and friends, the ACT judiciary and in the ACT generally.

I would like to contrast the work of this great democrat with the attacks on democracy in this country by the federal government during its last term. There are two particular areas where the federal government should be ashamed of its actions with respect to our democracy. The first area is its attacks through its changes to the electoral laws, where the government has sought to disenfranchise between 40 000 and 50 000 South Australians, I understand, and between 400 000 and 500 000 Australians. There can be no justification for the changes to the electoral laws, which prevent all these Australians from voting at the next federal election. The only reason that I can think of is that the government is concerned about the way in which they may vote—and, after 11 years of the Howard government, one can understand why he may be concerned about that.

The Hon. M.J. Atkinson: That won't save them.

Mr PICCOLO: I am sure it will not. People can see that this is a cynical exercise and an attack on our democracy. Why would you want to disenfranchise people and prevent them from voting? Why is it that the Howard government does not trust our young people to vote, if you like, the right way? Why does the Howard government attack these young people and, at a time when we should be encouraging them into the political process, shut the door on them and prevent them from participating? Young people will remember this when they can next vote. The Howard government will be thrown out this time, and a future Labor government—and those opposite, who stayed silent during this attack on democracy—

Mr Venning: It was your bill.

Mr PICCOLO: The commonwealth bill was not our bill at all. The bill we passed in this house was to make sure that there was no confusion about how to vote, in time to make sure that we do not give a government—

Mr Venning interjecting:

Mr PICCOLO: We had no choice. You cannot have two sets of rules operating at one election. As the Attorney-General has mentioned, they attacked young people, and particularly migrants, who now hope to get onto the roll. So, they attack people who are thinking seriously about what this government is doing.

The other attack on our democracy was the attack on our unions in this country through the WorkChoices legislation. Members should contrast the attacks on the unions in this country by the Howard government with the very progressive and positive role unions have played across the globe in countries changing from dictatorships to democracies. Look at Poland and other countries, where the trade union movement has played a positive role in the transition from governments that have used—

The Hon. M.J. Atkinson: Dictatorships.

Mr PICCOLO: Exactly, and the move to democracies—through South-East Asia, Europe and so on. So, what does our federal government do instead? It attacks our unions. The unions have a very important and positive role to protect not

only workers' rights but also to protect our democracy to ensure that we have a pluralistic society. So, those opposite—and, in particular, the member for Unley, who continually attacks our unions—should be ashamed about the way in which they attack our unions, because they are an important institution in protecting our democracy. In closing, I again pay my respects to the late Terry Connolly, and I contrast the work of that great democrat with the work of the federal government.

Motion carried.

At 4.34 p.m. the house adjourned until Tuesday 16 October at 11 a.m.