HOUSE OF ASSEMBLY

Tuesday 16 October 2007

The SPEAKER (Hon. J.J. Snelling) took the chair at 11:00 and read prayers.

ELECTION OF SENATORS (CLOSE OF ROLLS) AMENDMENT BILL

The Legislative Council agreed to the bill without any amendment.

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

Adjourned debate on second reading.

(Continued from 27 September 2007. Page 972.)

Mr WILLIAMS (MacKillop) (11:03): I am the lead speaker for the opposition on this bill. That does not necessarily mean I will take some hours to get through it, but I say at the outset that this is a very involved and technical piece of legislation. It is yet another tranche of a number of pieces of legislation which will establish and refine the national electricity market. Because it is a very technical and involved piece of legislation, some clauses run to many parts. In fact, one clause has something in excess of 30 parts to it. Just to indicate the complexity of the bill before the house, I think it is an abuse of the parliament for the government to introduce a piece of legislation such as this and then expect it to be debated in the house within less than a fortnight of its introduction. I think it was introduced on the last sitting day, so it is about a fortnight, and we are now debating a pretty amazing piece of legislation.

Due to commitments and other responsibilities I have as a member of parliament and, indeed, as a shadow minister, I was unable to receive a briefing from the government in the first week after the bill was tabled and was only briefed on this a bit over a week ago. So, I make the point that I think it is an abuse of the parliamentary process to put this sort of legislation through in such a hasty manner, particularly when it has been debated by the minister, the first ministers and the industry outside of the parliament for probably 2½ years.

It is a piece of legislation that has had a very long gestation and, indeed, in the briefing I had from the government I was informed that the original expectation was that this legislation would pass through parliament probably more than 12 months ago—more like 18 months ago. So, it has been very long in getting to parliament, and I question the motives of the government in expecting the opposition to become fully versed with the legislation and debate it in a very short time frame, namely, about a fortnight.

As a consequence, the opposition and I, as shadow minister for energy, are still getting our heads around some of the aspects of the legislation. I indicate that the opposition will not oppose it in the assembly but, of course, given those circumstances, the opposition will reserve its right to alter its position come the debate in the other place. If it is revealed to the opposition that all is as we have been told, I am sure we will see the bill proceed through the other place without amendment. I hope that is the case but, notwithstanding, I am somewhat disturbed by the hastiness with which this piece of legislation has been brought on.

I know the government has an excuse, if only because, as we have seen all year, there has been an incredible paucity of legislation coming into the house and the government has the sitting dates locked down and needs to bring something to the house for us to debate. The paucity of legislation before the house I think is probably a result of the fact that the government, and no doubt members of the Labor Party generally, are spending much time otherwise occupied, namely, in a federal election campaign. Indeed, that has occupied them for a long time—many months; I am sure it has not just started for them this week.

The SPEAKER: Order! The member for MacKillop will have to turn his attention to the bill at some stage.

The Hon. P.F. Conlon: I don't think he knows much about it.

Mr WILLIAMS: I concur with the minister. I am not sure how much the minister knows about it. Indeed, if I was aware that the second reading speech was going to run to 26 pages, I might have withdrawn leave for him to have it inserted in *Hansard* without reading it. It might have been the first time he had read it. But, I can assure the house that I have, in fact, read it. To claim

that I understand every bit of it at this stage is a claim I would not make. Notwithstanding, I will first go through some background to the legislation.

Of course, the National Electricity Market (NEM) came into operation in December 1998, and South Australia is the lead legislator for the national electricity law and, as such, enacts the relevant legislation which is then extended to the other jurisdictions via application acts passed by the other parliaments. Interestingly, while I was researching some of the background, it came to my attention that the reason South Australia is lead legislator is that (certainly under the previous government) in the cabinet handbook the decision had been taken that the cabinet of the government of South Australia would not entertain picking up legislation via the process of utilising an application act. It may have changed, but that was my understanding when the Liberal Party was last in government.

In July 2005 significant amendments were made to the original act to enshrine in the law the Australian Energy Market Agreement, as signed by all first ministers in June 2004. That legislation established the Australian Energy Market Commission and the Australian Energy Regulator, with responsibility for electricity wholesale and transmission regulation. The policy-making role was enshrined in the Ministerial Council on Energy with rule-making, market development and economic regulation and enforcement being the province of the commission and regulator. In June 2006 the Australian Energy Market Agreement was further amended with the agreement of all first ministers.

The legislative package reflects advice from the Expert Panel on Energy Access Pricing of April 2006 and is the Ministerial Council on Energy's response to that report. The bill comes as a result of the Council of Australian Energy Ministers' agreement to have a single regulator, the Australian Energy Regulator, to regulate all transmission and distribution networks in the national electricity market. It is worth noting that proposed gas distribution networks will also come under this regulation shortly, and I believe the house can look forward to that legislation in the not too distant future.

I now turn my attention to the bill before us, which confers the economic regulation of electricity distribution networks on the Australian Energy Market Commission (AEMC) and the Australian Energy Regulator (AER). The bill will place in legislation the objectives of the law, and sets the objectives as the promotion of 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. Certainly, during the committee stage I will be seeking from the minister an explanation of the subtle change in the objectives—which are stated as being the objectives of the law rather than the objectives of the market—because the wording changes little. In fact, the only change (from my reading of the existing legislation and the bill before us) is to remove the word 'market'.

The AEMC must test changes when making rules against this objective, as must the AER when performing its functions. Matters of broader social and environmental objectives have been deliberately left to other legislative instruments and policies outside the national electricity law. The bill will allow for two forms of regulation: direct control network service, where the price is fixed by an AER revenue or pricing determination; or a negotiated network service, where transmission and distribution services are regulated under a negotiate/arbitrate regime as opposed to upfront price control.

The regulator is able to determine the regulatory scenario based on the potential of the market power to be exploited by the service provider. Factors considered by the regulator in this determination include the presence and extent of barriers to entry in a market, the interdependent nature of network services and any network externalities as potential sources of market power, countervailing market power possessed by consumers of the services, the potential of substitution by or for other products, and the extent to which information regarding the efficient use of providing the service is available to customers.

The amendments provide for the inclusion of six revenue and pricing principles to guide the AER, and those principles are:

- that regulated network providers should have a reasonable opportunity to recover at least the efficient cost incurred in providing the service to provide effective incentive to promote economically efficient investment;

- that the regulator has regard to the regulatory asset base adopted in any previous determination;
- that prices and charges allow for a return commensurate with the regulatory and commercial risks involved;
- the regulator has regard for the economic costs and risks of the potential for both under and/or over investment by a service provider; and
- the regulator has regard to the economic cost and risks of the potential for both under and/or over utilisation of the network.

The bill establishes a fit-for-purpose decision-making regulatory framework. This framework will give the regulator the flexibility to make an independent assessment with regard to each of the national electricity rules, given a level of discretion within the established market rules. The bill gives amended powers to the AER with regard to information gathering, including search warrant provisions. The power includes:

(a) the ability to issue a general regulatory information order which would apply to all network providers of a specified class, specifying the information to be kept and the manner in which it is to be available; and

(b) a regulatory information notice which is specific to a network service provider.

The AER's information gathering powers are extended to parties related to the service provider, and the ability to issue an urgent regulatory information notice is also envisaged.

The AER is able to publish performance reports on the financial and operational performance of network service providers. Whilst confidential information should be protected, the AER may disclose information if the public benefit warrants. Such decisions are subject to a merits review. It should be noted that performance reporting is already part of the regulatory regime here in South Australia. The amendments will introduce a mechanism for limited merits review by the Australian Competition Tribunal, and parties including network service providers, users and consumer associations may seek leave from the tribunal for a review of the primary transmission and distribution determinations made by the AER.

Regulations may prescribe other decisions which may be subject to a merits review. It is intended that passed through applications will be so prescribed. Merits review will be limited to where the original decisions contained errors of fact or if the original decision maker's discretion was incorrectly exercised or the decision was unreasonable, having regard to all the circumstances.

Furthermore, reviews will be available only for revenue related determinations where the amount at issue is more than the lesser of $5 million or 2 per cent of the annual average regulated revenue. Wide scope will be available for intervention in reviews by interested persons or groups once a review is commenced. The review may affirm or vary a decision set, set aside a decision and substitute a new decision or refer the matter back to the AER for reconsideration. Amendments will allow the AER to act as an arbitrator in the case of disputes relating to access, and determinations made will be binding.

The bill provides for the initial electricity rules to be made by ministerial instrument, and thereafter the Australian Electricity Ministerial Council (AEMC) may amend the distribution rules through a statutory rule change process. The rules provide the framework within which the AER makes its determinations. The basis for the initial asset base is established by the rules, as is the framework to consider capital and other expenditure requirements, and the process for determining the cost of capital.

The recognition of passed through events is guided within the rules, and the AER can develop incentive schemes around capital and operating expenditure efficiency, services standard efficiency and demand management via the national electricity rules. The new rules are also designed to enhance the uptake of renewable and distributed generation, with homeowners using solar PV units (photovoltaic units) to benefit from reductions in network charges, and large customers who make lasting demand reductions to also have tariff allocation reassessed. Existing determinations will continue to operate under the current rules until they expire.

The bill allows for the continuation of South Australia's tariff equalisation arrangements which protect small customers in isolated areas. Additional obligations arising from the South

Australian pricing order are maintained and recognised in the regulatory guidance established as part of the South Australian electricity privatisation process. In the short time that has been available, I have met with representatives from the federal minister's office, ElectraNet, ETSA Utilities, the Energy Networks Association and Envestra. Whilst the service providers have some reservations, they support the legislation, given their belief in the net benefits and their desire to move forward under the national arrangements. The national regulator will be constantly making determinations, giving industry a continuous insight as opposed to the current five-year cycle experienced in South Australia under the state-based regulatory regime.

The legislation has been a long time coming, as I said, and has resulted in significant compromise, with much discussion centring around the balance between what would be in the act and what would be within the rules. The industry is, by and large, satisfied with the outcome but does have some reservations, and I will come to those points in a moment. The federal government has also encouraged the opposition to support the bill. So, as I said earlier, the opposition does indicate at this stage that it is supportive of the bill before us. This follows the Liberal Party's belief in the market-based system that we now have, or are in the process of finalising. It has been evolving since the late 1990s and, we believe, it is integral to the position in which South Australia finds itself and in which other states will shortly find themselves with the privatisation that occurred in South Australia with regard to our electricity assets some years ago.

It is now an almost universal belief that it is not necessary for the public to own particular assets through governments to ensure that the service is provided. It is ironic that, with this legislation, the Labor Party—which opposed the privatisation of South Australia's electricity assets, I would remark, for political purposes—is now party to these sorts of changes which build the regulatory regime which enables the public to get the same protection—in fact, better protection—than what they would have by publicly owned electricity assets. We see that many other jurisdictions—notably New South Wales, I believe—will very soon be moving to a position that was adopted both in Victoria and South Australia where they utilise such regulatory regimes to protect consumers rather than tying up billions of dollars of taxpayers' funds, which only leaves open the ability for ministers of the government of the day to take capricious decisions for political purposes.

Indeed, with the completion of this series of legislation—and this will almost bring it to a close; I believe there is little more to come—there will be no argument left at all in places like New South Wales and Queensland for the retention of public ownership of electricity assets. It is interesting to note that this process will continue with regard to gas and that we will have an Australian energy regulatory regime. It is also interesting to note that it was a former Labor government of South Australia that privatised our gas network and distribution system yet argued against the same thing happening with regard to electricity but is now party to establishing the very regime that offers the protections that it argued at length would only be available if the taxpayer was investing billions of dollars into electricity assets.

I have a number of questions which would probably be easier to raise during the committee stage, but there is one question with regard to retail price control in South Australia to which I would like the minister to respond. When the last piece of legislation went through the house back in 2005 I think the minister was somewhat confused about where the government was going. He said one thing in the parliament and something else in the local press with regard to where South Australia was heading in terms of retail price control.

What we as a parliament have done over the years with regard to legislation (obviously, Labor has been the lead party in this) is to remove in-house, local, or South Australian control over much of the regulatory process, and we will hand that over to a national regulator. So, ESCOSA (the South Australian-based Essential Services Commission) will no longer have control over a wide range of things that impact on the price of electricity in South Australia. We have already handed over regulatory powers to the national body for interconnection services or transmission facilities—

The Hon. P.F. Conlon: No, we haven't. The ACCC has always made those decisions, mate. We didn't hand it over to them.

Mr WILLIAMS: I will be corrected by the minister: the national regulator, under the 2005 changes, took control of transmission regulation, and also took control—

The Hon. P.F. Conlon interjecting:

Mr WILLIAMS: The minister is correct in saying that they took it from the ACCC. However, the other area is the—

The Hon. P.F. Conlon: We didn't hand it over; you admit that?

Mr WILLIAMS: I do admit that. However, the other area is the regulation of the wholesale price; indeed, we are now handing over control of regulation of distribution networks. My question to the minister is: what is going to happen with regard to retail price control in South Australia?

The Hon. P.F. Conlon: It's in the second reading explanation; the non-economic aspects of retail.

Mr WILLIAMS: My understanding is that a review will probably be undertaken next year, which will ask the basic question: are electricity supply services operating in a competitive market in South Australia? I believe that review will indicate that South Australia does have a competitive market right across the board with regard to its electricity supply services. What will be the government's response? Will it free up retail price control, or will the government maintain the ruse that it has its finger on the pulse and will intervene when and if necessary? I guess that is the main question in relation to where we are going. In the past, the minister has steadfastly said that the government's position is always to maintain that retail price control here in South Australia so that the minister has the ability to intervene if and when necessary.

It seems that other jurisdictions do not believe that is necessary within their jurisdictions. I would like the minister to indicate what his reaction will be when the upcoming review informs him that we do have a competitive market here in South Australia, because that was the intent of the former Liberal government when it took the decision to sell the electricity assets. We know that privatisation has been beneficial to South Australia and that commercial and, more recently, domestic customers have received cost benefits due to that privatisation and the sort of regulatory system that has been put in place since then. Do we still need to impose a retail price control at a cost to local electricity consumers?

The Hon. P.F. Conlon: Prior to election, promising to remove it.

Mr WILLIAMS: The minister has been flushed out. I did not think it would happen quite so easily. He suggested that we go to an election on this issue, because he still believes that there is a political upside for him. The reality is that South Australian consumers—both at the commercial and domestic level—are the beneficiaries of a very efficient, market-based electricity service sector, as are gas consumers, notwithstanding that the former Labor government privatised the gas network and the gas distribution system in South Australia. Via his interjections, the minister has already stated his position, that he will continue to play politics with this, notwithstanding that we have a regulatory system which, as I say, protects consumers and electricity users. I am getting the wind-up; you only encourage me to talk longer, minister.

The Hon. P.F. Conlon: Talk about the bill.

Mr WILLIAMS: I have talked extensively about the bill. If the minister had listened to my contribution earlier rather than sitting in his place talking, he might have understood that I have been talking about the bill for the last 20-odd minutes. Indeed, I am about to wind up, but I briefly restate that the opposition reserves its right to ask more questions in the other place because of the technical nature of this bill.

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy) (11:32): I am a very charitable man, therefore I am going to attempt to assist the member for MacKillop with regard to this bill. I will try to work through the points he made in the correct order. The first point was that this bill has been sprung on the opposition with only less than a fortnight to consider it, which it thinks is most unfair. The honourable member went on to suggest that that was for some base motivation. I will come to the first point, that it has been sprung on the opposition.

Mr Williams: That is not the word I used.

The Hon. P.F. CONLON: Well, that is not the word you used, but you did say that it was introduced without sufficient time for you to understand the complexities of it. This is a reform process that has been going on for five years, and this is the latest step in what should be a well-understood reform process. This bill has been produced in draft form—I think, the first draft was in about March this year—and then another draft, and all of those were posted on the Ministerial

Council on Energy website. I will get that website address for the opposition spokesperson in a moment. It has been out to extensive public consultation.

The problem that the opposition has is that the opposition spokesperson on electricity—a matter so vital to all South Australians—only discovered it when we tabled it in parliament. If the opposition spokesperson has been so bone idle that he has not attempted to inform himself of one of the most important reform processes, if he cannot access a website which most primary school children can now do, if he has not had the interest to inform himself, and if he thinks it is the duty of the government—given that he is actually paid to be the opposition spokesperson—to inform him when he does not have the gumption to inform himself, then I say he is much misinformed, and he is much misinformed on many aspects of this. His contribution included some things that were simply manifestly wrong, and I will deal with those in a moment. The notion that this has been rushed in for some objective of ours is ridiculous. I do not think anything has been more discussed with the industry and more available to the public, to everyone, except the opposition spokesperson, who has decided to approach his mastery of energy by keeping an open mind by not informing himself of anything.

Far from being rushed in for some base motivation, this measure has involved a long process. I will explain national reform. The opposition spokesperson has never been a minister and has never dealt with national reform. As I say, it is a very long process and involves getting all jurisdictions and the commonwealth to agree. The bill before the house is, of course, a result of that. The reason it is being put in now, and the reason we would like it finished, is that my colleagues in New South Wales have asked us whether it is possible for us to have it concluded by the end of the year. The reason for that is that they have a distribution reset coming up.

Mr Williams: I am aware of that.

The Hon. P.F. CONLON: He is aware of it. I do not think that he is aware of it because one of the closing comments of the opposition spokesperson is that what we are doing is sponsoring a bill to introduce the market to all those people who have not privatised, which is just such a manifest misunderstanding. The truth is that this bill has no regard for who owns the assets—no regard at all; it is simply a regulatory process. All that is happening is that a regulator that already exists (there is already a regulatory system for state-owned assets) will be transferred to a national regulator.

My colleagues in New South Wales would like it done this year, if at all possible, for the very good reason that, if the reset is to commence, they would like it to commence under the new national regulator, not under a state-based regulator and then be shifted to a national regulator. The opposition spokesperson says today that that is no problem and that he agrees. Why did he say something else? Why did he make up some story about our having some base motivation? Why did he do that? Why does the opposition do that? He now says that he knows it is not true, but why did he do that? Why does he seek to mislead people about something we are doing?

To come back to the point, this national electricity bill is the result of some five years of work on national reform. The notion expounded by the opposition spokesperson is that it is somehow hypocritical that we opposed privatisation but want to hand over regulation to the commonwealth. This again demonstrates the absence of any knowledge of this process. What occurred was that, in a privatised world, one thing we knew was that, once you lost the protection of government ownership, you had to have the best possible regulatory system you could have. So, we went to the commonwealth to seek to introduce a better regulatory system. Our original ambition was to solve the problem.

Mr Williams interjecting:

The SPEAKER: Order!

The Hon. P.F. CONLON: I am not surprised that the opposition spokesperson is embarrassed about this. Our original ambition was to improve the national regulatory process by filling the policy—

Mr Williams interjecting:

The Hon. P.F. CONLON: I will come to the point that consumers and commercial consumers would have been better off under the opposition, if the member for MacKillop really wants to me to. I say to the opposition: instead of debating things that are not in this bill, if he wants to have a debate with me and the public of South Australia on the merits of his privatisation (and it

is not often I invite one of those people on the other side to debate because it simply raises their profile), if he wants to go to a big public debate anywhere he likes on the merits of this privatisation and support it, I will talk about what really happened any time, any place. However, I come back to the bill. What we sought to do was to fill the policy vacuum everyone acknowledged existed in the creation of the national electricity laws and to create a better mechanism than the endless debate between NECA and the ACCC.

Again, the opposition spokesperson feigns indifference and chats with his mates, because he will go to any lengths not to be informed on national electricity laws. That way he can stand up and claim not to know anything about them when they come into this place. If ever there was a confession that a person has not discharged their obligations as an opposition spokesperson, it is the fact that this fellow claims he knew nothing about what was in this bill until it was introduced in the house. That is quite astonishing, and really he should be embarrassed. That is what we sought: a sensible reform, an improvement of the 'fill a policy' vacuum, and an improvement in the relationship between NECA and the ACCC.

Members interjecting:

The Hon. P.F. CONLON: There they go; they are feigning chatter.

Members interjecting:

The Hon. P.F. CONLON: Here we go. They are speaking aloud so that they can pretend that they are not interested. We know that you are not interested; we know that you know nothing about it—nothing at all. But if you take pride in the fact that you know nothing about it, then you are a very different politician from me, and that is why you will stay on that side for ever, and it is why you have never been a minister. You do not want to know anything about anything. I hope that you know something about farming, I really do. You must know something. Coming back to the bill, we wanted to improve regulation because people had been thrown to the wolves through privatisation. But, there is a Liberal commonwealth government, and we have to get its agreement.

The federal government's price for the full reform was the creation of a single national regulator. That is not me handing it over: that was the Liberals' price to participate in the necessary reform to improve electricity regulation for consumers. We set aside the politics to improve the lot of consumers, and we incorporated the demands of the federal government because we could not achieve reform without it. This is about getting all of the states and the commonwealth to agree. It has been a long, slow process, but we got there. I invite the member for MacKillop, the opposition spokesperson on energy, to perhaps take quarterly briefings from our officers on the reform process so that he is not caught unaware of what is going on in terms of national regulation of one of the most important services for all Australians. It would be very helpful for him.

I want to address some of the other questions that were asked, and I can certainly answer them in committee. The notion that I have said two things about price capping is absolutely false. I have said inside and outside this house that I do not support the lifting of price regulation. I have advised consistently—as recently as last week when the retailers association came to see me—that I do not support that. I have said on the record why I do not support it.

The notion that, because of the work of this government in creating a competitive market, people therefore do not need protection is absolutely illogical. The people, in my view, who are not protected by the marketplace are those who are purported to be represented by members on the other side, particularly those in small regional communities. If you think that energy retailers want to go out and compete for those small groups of marginalised regional customers and small-use customers, then you are kidding yourself.

I note that the tenor of the speech from the opposition spokesperson is that the market can fix it, but that has been the attitude throughout. The tenor is that they will support the removal of price control. They will support the removal of price protection for those people whom they purport to represent. It is the consistent theme of the opposition's contribution. The member for MacKillop does not want to know about the laws, because he does not care. He has not kept track of national regulation, does not know and does not care what happens to customers. He does not care what happens to the country customers who need protection—he does not care at all. And, look, they are all getting embarrassed for him now. It is a tricky subject, but it is a very important one, and there is no excuse for not trying to get your head around it.

I continue to support retail price control. The market objectives are not all that different, nor do I think that they should be. From memory, I think that they incorporate a desire ultimately to

bring together the gas and electricity markets. I do not believe they should be, even if I think it is a right objective. The objective for South Australia, being pressed into a single national regulator, is to make sure that the national regulatory process is at least as good as that in South Australia. I think ESCOSA has established, as a result of the legislation and the support of this government, an extremely good regulatory regime. We want to make sure that the national regulator is at least as good as the state regulator. There are, of course, potential benefits to national regulation and they have been set out so I will not go over them.

What I can say to the house is that the latest piece of legislation is the result of five years of very hard work, and I commend South Australian energy officials in that regard. I believe that they are as good or better than any energy officials anywhere around Australia and they have done an enormous amount of work on this. I place on the record my regard for the very hard work done by Vince Duffy and, before him, Garry Goddard. It has been very hard work to bring everyone to agreement on this bill. It is a matter of enormous importance for all Australians, particularly in a carbon-constrained world, that we get the regulation of the national energy market right. It has absolutely nothing to do with whether the distribution company is owned by government or the private sector— that has nothing to do with it.

The complete fabrication that supporting regulatory reform is about showing that the Liberals were right to throw customers to the wolves is simply what I have said it was—utter fabrication. It is tremendously important. I will close by saying to the person who calls himself the opposition spokesperson on energy that, having privatised it and having sold off the assets, that is no excuse for him not knowing what is going on in the world. It is no excuse for him not following national reform.

It is no excuse for him not being able to look up a website with draft upon draft of this legislation, or attend one of the consultations, or even talk to industry representatives who have been involved throughout this. Privatisation is no excuse for him not to have any knowledge, not to do anything about his area of responsibility. I am happy to answer any questions in the committee stage of this bill. Even though it is a difficult process for all those governments and the commonwealth, I really hope we are not going to see an opposition spokesperson who has not bothered to do any work on this second-guessing every state and federal government in Australia.

Bill read a second time.

In committee.

Clause 1.

Mr WILLIAMS: Given his rantings a few moments ago, will the minister explain to the committee what options would be open to a government that retained ownership of electricity assets that would not be open to a government having privatised those assets and having a regulatory regime as will be implemented by this bill and its predecessors?

The Hon. P.F. CONLON: The options that are open are: a choice to take a lower profit margin than the private sector might; a choice to charge less than the private sector might; something like an E-test scheme which exists in New South Wales; a choice to put—

Mr Williams interjecting:

The Hon. P.F. CONLON: Yes; that is right; we know that you do not like looking after the customer. We know—I have got the point. Further options are: a choice to put customers before profit; and a choice to ensure that, for example, it is not just user pays when you connect people so that country people do not have to pay an absolute fortune to get onto the system, while people in the city pay less. All those sorts of choices are available to you. We know that you do not like it; you have made your point. We will debate you on it any time you like.

Mr WILLIAMS: Country people were protected in the privatisation process. I, personally, happen to have been largely responsible for those protections. I am very aware of them and—

The Hon. P.F. Conlon interjecting:

Mr WILLIAMS: —I am delighted that those protections are still maintained in this bill. Interestingly, the minister obviously has failed to recognise that, by and large, taxpayers and electricity consumers are the same persons, and whether they subsidise the price of electricity via their taxes or they pay it via their electricity bill is one and the same thing.

Clause passed.

Clauses 2 to 5 passed.

Clause 6.

Mr WILLIAMS: Can the minister give a full explanation for the need for new sections 2B and 2C—establishing the opportunity for the regulator to have a direct control network service or a negotiated network service—and examples of where either type of regulation may be used?

The Hon. P.F. CONLON: I am not sure what the opposition's question is. A regulatory regime was established. From memory, they call it a 'fit for purpose regime'. It incorporates a regulatory regime of things that, in the past, we would have called simply regulated assets where DUOS apply, and then a further category. All this does is set out the classifications of those things and what will fall into each category. There will remain, as I understand it, a discretion in the regulator. Of course, that discretion will be about some obvious facts such as whether it is a natural monopoly. From memory (and only from memory), a whole load of matters go to that discretion, including whether there is capacity for competition and whether there is capacity for substitution of the service through such things as imbedded generation. It sets out the classifications upon which the regulatory discretions operate, and I would have thought that was something it should do.

Mr WILLIAMS: I am afraid that the minister, who apparently knows this inside out and who is obviously taking advice from someone who does know it inside out, probably does not know it quite as well as he thought he did, and—

The Hon. P.F. Conlon: Ask me an intelligent question.

Mr WILLIAMS: I am about to rephrase the question that I just asked in the hope that we might get a sensible answer from someone who knows what they are talking about. You would not look so damned foolish if you had not had carried on so much earlier.

The Hon. P.F. Conlon: Come on; give us a question.

Mr WILLIAMS: Minister, you should listen. You are the one who will continue to be embarrassed, because you display that you do not know what you are talking about. New section 2B, headed 'Meaning of direct control network service', states:

> A direct control network service is an electricity network service—
>
> (a) the Rules specify as a service the price for which, or the revenue to be earned from which, must be regulated under a distribution determination or transmission determination; or
>
> (b) if the rules do not do so, the AER specifies, in a distribution determination or transmission determination, as a service the price for which, or the revenue to be earned from which, must be regulated under the distribution determination or transmission determination.

New section 2C is headed 'Meaning of negotiated network service', and it states:

> A negotiated network service is an electricity network service—
>
> (a) that is not a direct control network service; and

and so on. My original question—and the question I again ask—is why is it necessary to have the two types of regulatory control: one, a direct regulatory control where the regulator makes a determination up front through a process; and, the other, where, it seems, as they go forward and from time to time, the regulator acts as an arbitrator and they negotiate the price that is paid for the service from time to time? Can the minister indicate why it is necessary to have the two types of regulatory regimes in place, and can he give some examples to the committee of what sorts of services would fall into each of those regimes?

The Hon. P.F. CONLON: What I will do is speak more slowly. The first type of service—now, concentrate—is those that are predominantly natural monopolies. That is the predominant consideration. For example, all those poles and wires you see running down the street, it is unrealistic to suppose that there will be a capacity for someone to compete in a geographical area with other poles and wires. If it helps the member's confusion, it is probably just the change of name. These would be called under our regime, I think, prescribed services; that is, the natural monopoly distribution network services. What happens with those is that you can do a reset every five years, give a rate of return upon assets, and estimate op ex and all those sorts of things. Is the member concentrating here—

Mr Williams: Yes.

The Hon. P.F. CONLON: —because I will be asking questions later. Those are big national monopolies that, by and large, can be regulated and reset. I will go out on a limb here and suggest that there are probably other ETSA services that will be regulated, but in a different way. For example, there are some services which are not of that nature which are not readily contestable. A classic example, I think, would be an extension for augmentation. It is impossible to set a general reset for five years on the cost of every extension and augmentation. Apart from anything else, you will not know what they are.

However, it is necessary, given that the service is not contestable, for that to be regulated; that is, you cannot simply allow the distributor to exercise market power. So, it is necessary to have two different categories of regulation. If you were to look at our existing regulatory system, you would find that ESCOSA, when it regulates the distribution system, does that. It already has different categories of regulation, from memory. You can go to the regulator if you are unhappy with an offer on an extension or augmentation of a service that is not readily contestable.

There are services, of course, that are not regulated at all, because there is sufficient competition, or there are other sufficient safeguards to do that. I would have thought that you would expect a regulator to have a capacity to regulate things differently, according to the nature of the assets. I may not have explained it well enough for the member, but if he tells me which specific part he does not understand, I can go into more detail.

Clause passed.

Clause 7 passed.

Clause 8.

Mr WILLIAMS: In my second reading contribution I referred to the subtle change in the wording to the national electricity objective. This clause amends section 7 of the act. Currently, section 7 of the principal act talks about the national electricity market objective, whereas clause 8 (inserting new section 7) talks only about the national electricity objective, that is, it removes the word 'market'. The bill further provides, ‘The objective of this law is to promote efficient investment in...'. The wording is virtually identical. Will the minister explain to the committee that subtle change and why the word 'market' has been removed? The same changes have been made to a number of other clauses. I am sure that many of the minister's colleagues would be most happy to hear the minister's explanation. I would be absolutely amazed if any other member of the parliament—apart from the minister and me—has taken the slightest notice of this piece of legislation, whether it be from the website or anywhere else.

One reason I think the parliamentary process is important is that all 47 of us—and the 22 in the other place—are charged with some responsibility. The minister might think it is a proper process to come wandering in here, slap a bill on the table and say, 'This is it. I've been looking at it for three years, therefore it is good. We should all accept what I say and get on with it.' The reality is that if the minister questioned any colleagues on his side of the chamber he would find that not one of them has been wandering through the website and following this process. I am not too sure that many of them would have taken much interest when he took it to his caucus either. That is the reason we have the parliamentary process.

The Hon. P.F. CONLON: I must answer that. I have not questioned for a moment the parliamentary process. I am a great believer in it. One cannot get away from this. The only thing I took umbrage at was the honourable member claiming that this was rushed in without sufficient notice to him and that, as the spokesperson, he had only two weeks to look at it. None of my parliamentary colleagues claim to be the shadow spokesperson on energy—that is a title the honourable member claims. I take umbrage at the honourable member's failing to inform himself of a process that has been going on for five years (in addition to widely available information) and saying that somehow we have let him down.

I will simply not accept that. People in this place are entitled to ask all the questions they like; and I will answer every one of the honourable member's questions honestly, as I have always done. The honourable member should not try to squirm out of the fact that he came into this place and claimed that this was something about which he had insufficient notice to deal with. I do not know whether he has other shadow portfolio areas, but he should spend a little less time on them and a little more time on this one.

The definition is changed for two principal reasons: first, because of the impending convergence with the gas regulation—of course, this law was based on a national electricity market; and, secondly, that the market might be read narrowly to refer to those parts of the system (such as NEMMCO, the market, the price setting, the spot market and those sorts of things) as opposed to what the law actually does cover, and that is all aspects of the delivery of electricity from supply through to consumer. It does not change a great deal in substance. It does prevent the risk of its being read too narrowly. It does not change what I think were proper objectives set out under the national electricity law.

Clause passed.

Clauses 9 to 24 passed.

Clause 25.

Mr WILLIAMS: This clause deletes old section 28 and inserts a new section 28, which gives general information gathering powers. The question is quite simple. Clause 28(7) specifically says that it is not a reasonable excuse for a person to:

(a) fail to provide information of the kind referred to in subsection (1) to the AER; or

(b) fail to produce a document of the kind referred to in subsection (1) to the AER, or to a person specified in the relevant notice acting on behalf of the AER,

on the ground of any duty of confidence.

In subclause (9) it goes on to exempt certain persons or organisations from that sort of disclosure obligation and specifically cabinet committees of a state, territory or the commonwealth. Will the minister explain why it is imperative to keep cabinet confidentiality? Somebody in this instance would be part of the electricity market but is not able to maintain the confidence in a commercial sense, yet we provide a specific exemption for a document that had been run through the cabinet process?

The Hon. P.F. CONLON: I am surprised at the question. My understanding is that it is a stock standard provision in terms of cabinet solidarity and the privilege against self-incrimination. If you do not think they are there, you are probably promoting an idea for the first time.

Clause passed.

Clauses 26 and 27 passed.

Clause 28.

Mr WILLIAMS: This clause concerns the rule-making powers. My understanding is that one of the significant debates that was had during gestation of the bill related to what was going to be in the bill, in the law and in the rules. There was a debate between the various governments and stakeholders in industry regarding that, and I understand that the industry wanted a process whereby more was in the rules rather than in the law, in order to give flexibility as they move forward. Obviously, this is a dynamic industry and it changes fairly rapidly. I believe that the initial rules will be set by ministerial decree, which I assume will be under the minister's hand as the lead legislator. Are the initial rules simply transferred from the existing rules, or will a suite of new rules be promulgated in that initial process?

The Hon. P.F. CONLON: There will be a substantial body of new rules because the national electricity law has not dealt with distribution in the past. There will be a substantial body of new rules around distribution. Whilst those rules may be introduced by me, they will have to be agreed with all jurisdictions. My understanding of the process—and one of the reasons these things take a long time—is that there will be discussion about what should be in the law and what should be in the rules. This was the agreement of the jurisdictions on the best mix. A draft set of rules is on the NEC website. What is in the law and what is in the rules has not been as big a discussion in the Electricity Act (because most of the substance does not change) whereas in relation to the Gas Act there was a big debate about what should be in the law and what should be in the rules. What is in the rules is the agreed position of all the jurisdictions and they are available on the website.

Mr WILLIAMS: In relation to the other areas that are covered by the national regulator—principally the transmission networks—are the rules the same or has the opportunity been taken to change the rules?

The Hon. P.F. CONLON: The other rules will only be changed consequentially because of the introduction of this bill.

Clause passed.

Clauses 29 to 45 passed.

Clause 46.

Mr WILLIAMS: This clause refers to the merits review. The clause provides for new sections 71A to 71ZF. I do not intend to go through all the new sections. This is one of the areas about which industry still has concern.

The Hon. P.F. Conlon: I am not surprised.

Mr WILLIAMS: Industry is concerned about the limitations to the initiation of a merits review. Secondly, although industry is somewhat relaxed, in my mind it highlighted the opportunity for third parties to enter into a merits review once the review was established, and I refer to new section 71L, which provides for leave for a user or consumer intervener in relation to a merits review. First, what was the basis for the limitation of the merits review process specified in the bill and, second, is the minister satisfied that the process of allowing intervention once a review is established will not cause a burdensome situation where reviews may become bogged down in a very lengthy and unwieldy process?

The Hon. P.F. CONLON: Suffice to say in regard to this provision that many of the aspects of this law are thrashed out among officers and this is one provision that was not. Obviously, it has been a matter of some importance and quite some lengthy debate among ministers at the ministerial council. The truth is, in terms of a review of a regulatory decision officer, there is a range of options about review. One is restricting it to a very narrow area in law, and the other is whether someone has made a right judgment. There is a full range of review. The view of ministers was that an open slather review of decisions is likely to be very costly. I have always personally taken the approach—and I think it is the approach of most intelligent people—that regulation should only be as burdensome as it must be, because the cost of regulation ultimately is passed on to the end user. That is the nature of the industry. So, there was a view among ministers that there had to be some restriction upon a merits review.

I can tell the member that I can recall at least one aspect of that, and that was that the value of a decision was the subject of amendment up and down, and discussion among ministers. So, basically what you have is something that, in my view, the ministers could agree on and the industry could live with and which does not have the potential to tie up the regulatory system through endless reviews. So, was it my perfect model? Probably not. Is it anyone's perfect model? Probably not. So, is anyone likely to be perfectly happy with it? Probably not. But the nature of setting a national regulatory regime is such that we have to get agreement, and this was the agreed outcome. I remember that, when talking to industry, the clause about provision of information was probably the one they were far more interested in, but when you reach an agreement you have to reach an agreement and you are not going to make everyone happy.

Clause passed.

Remaining clauses (47 to 92) and title passed.

Bill reported without amendment.

Bill read a third time and passed.

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

Adjourned debate on second reading.

(Continued from 27 September 2007. Page 974.)

Mr WILLIAMS (MacKillop) (12:18): I am the lead speaker for the opposition on this matter—I expect, like the previous matter, I will be the only speaker for the opposition—and I will be very brief. The bill seeks to establish a consumer advocacy panel (known as 'the panel') as an independent part of the Australian Energy Market Commission. The panel will comprise a chair and four members and will be responsible for commissioning research and allocating grants in the gas and electricity industry sectors. The panel will be required to publish a draft annual budget for

public comment which must be approved by the Ministerial Council on Energy and which is subject to scrutiny by the auditor-general—and I assume that would be the federal auditor-general, not the auditor-general of the lead legislator (and the minister may like to inform the house whether or not that is the case). I note that, when the panel is approving a grant for a particular project, 25 percent of its annual budget is set as the maximum amount that can be extended in any single grant. Other than that, I indicate that the opposition will support the bill.

Bill read a second time.

In committee.

Clauses 1 to 4 passed.

Clause 5.

Mr HANNA: I have two amendments in relation to this clause. To put them in context, first, I recognise that the minister and the speaker for the Liberal opposition have accurately outlined the purpose of the legislation. The consumer advocacy panel is formalised by this bill—and, indeed, I believe there should be a consumer advocacy panel. The panel consists of a chair and four other panel members, who themselves may research areas of benefit to consumers in both the gas and electricity sectors. They can also allocate funding to people who wish to research such matters. The problem I have with the legislation as it stands is that it does not look after truly small consumers well enough, it does not look after domestic consumers well enough and it does not look after small business consumers well enough.

Before I go on to explain the amendment I would also like to put my remarks in context, because we are dealing with national template legislation, and I understand that South Australia is leading the way with template legislation which all states are expected to follow. I want to make a point about the democratic formulation of legislation in this area or in any other matter of national interest and regulation. It is not good enough for the relevant ministers to get together (admittedly after taking advice and considering the matter) and coming back to each parliament saying, 'This is the legislation; take it or leave it,' without an adequate opportunity for each respective parliament to contribute to the process. That absolutely top-down process, I think, is objectionable in itself, so I will take up my right to move an amendment, which I think contains helpful suggestions of benefit to domestic and small business consumers. My wish is that they will be taken up across all the parliaments of Australia; and maybe it could start here. I move:

Page 4, lines 11 to 17—

Delete the definition of *small to medium consumer*—delete the definition and substitute:

small to medium consumer—

(a) of electricity—means a consumer whose annual consumption of electricity does not exceed 40 megawatt hours;

(b) of natural gas—means a consumer whose annual consumption of natural gas does not exceed 1 terajoule.

The currently drafted regulations, which the government has published, refer to small to medium consumers being those who use less than 4,000 megawatt hours per year. There must be a number of consumers of electricity who use several thousand megawatt hours per year who, according to common sense, could in no way be described as small consumers. They would be household names around Adelaide; they would be major commercial enterprises.

The purpose of my amendment is to lower the bar to exactly 1 per cent of the government's conception. In other words, I suggest that we should call consumers small to medium consumers if they have an annual consumption of electricity that does not exceed 40 megawatt hours per year. If this amendment is accepted, we will have truly small consumers on the panel, and I say that is what the panel is there for. It is not for Woolworths, David Jones or Boart Longyear consumers; it is for the truly small consumers—they are the ones who really need the voice in this complex and vast electricity market.

My amendment also refers to users of natural gas. Again, I am lowering the bar to define consumers as small to medium if they consume less than one terajoule of gas per year, whereas the government's published regulations, as I understand it, talk about small to medium consumers if they use less than 100 terajoules per year. The purpose of the amendment is clear; it is to have truly small consumers represented on this panel.

The Hon. P.F. CONLON: I am sure the member for Mitchell is not surprised to know that I am not able to accept the amendment. First, of course, this bill comes to this place as a result of agreement between the states and the commonwealth, and this is the result of that agreement.

Mr Hanna: We might have a different commonwealth shortly.

The Hon. P.F. CONLON: We may well have, and I think there is no doubt that a different commonwealth would take a very different view to several matters that we have discussed over the past five years. I was very surprised to hear the other night during the launch of the federal campaign that John Howard said, 'Love me or loathe me, you know where I stand on issues, because I was at the MCE for five years when the commonwealth, on the direction of the boss, refused to have any discussion whatsoever or participate in a discussion on a national emissions trading scheme. In fact, that drove the state energy ministers to act.

What we are now discussing at COAG came from state energy ministers. State energy ministers in a separate forum because the commonwealth would not participate, commenced discussions on a national emissions trading scheme. So, you can imagine my surprise when I found last year or so that John Howard does believe in emissions trading and, in fact, now he looks like taking the work we did and claiming it as his own. So, love him or loathe him, I do not know where he stands on some things.

Mr Hanna: He believes in everything.

The Hon. P.F. CONLON: He believes in everything. But I just make that point, and I will not digress too much. This is the result of an agreement between the states. I actually think, even if I were not bound to reject the amendment, that I would not accept so low a number. Members have to understand that some larger users of electricity may have very good cause to be pursuing advocacy on a matter in which the effect of that electricity use may flow on to a larger number of people. The fact that they use a lot of electricity may not necessarily mean that they have got a lot of money. I cannot give you an example off the top of my head because I did not see the amendment until today, but I think that there would probably be examples of where it would be a good argument for some large users of electricity to be included in the scheme. Be that as it may, having reached this agreement over a very long period of time, I do not think I could reduce it to 1 per cent of that which was agreed. I think they may find that to be an amendment of some substance.

Mr Hanna: There is room to negotiate.

The Hon. P.F. CONLON: There is a lot of room to negotiate; as I see it there is about 99 per cent more. So, I hope the member for Mitchell understands that while I understand his motivation I cannot agree to it.

Amendment negatived.

Mr HANNA: I move:

Page 4, after line 17—Insert:

(6) Section 3—after subsection (2) insert:

(3) For the purposes of this act, consumer advocacy projects may include projects that investigate, consider or support the establishment or operation of appeal mechanisms for consumers of electricity or natural gas within relevant markets.

I am also concerned that this consumer advocacy panel is going to be overly concerned with the needs and the problems of what most people in the community would consider to be very substantial users of electricity and gas. So, I want to make it very clear that, in the research projects to be considered by the panel, they can, and I would say they should, investigate projects which concern appeal mechanisms for consumers.

One of the problems with the electricity and gas markets is that they are so vast and complex that it is very difficult for small consumers (I mean domestic consumers and small businesses, essentially) to have any say in the process. Even where there are decisions in the intermediate area of the market between generation and retail, there are decisions taken as to price and market entrance which have a substantial impact on the final retail price. So, why should individual consumers and small businesses not have the right to buy into that process in some way? That is why I have moved this amendment, to make it very clear that the consumer advocacy panel is not just there to authorise research into market-wide processes and perhaps economic

modelling and the like, but to look at how we can involve consumers in the process if they find that there are problems.

The Hon. P.F. CONLON: Given the nature of the agreement, it is not possible for me to accept amendments on the floor. What I can suggest, as a glimmer of hope for the member for Mitchell—I am not completely hostile to what he is suggesting—and he can see this for himself, is that there are some draft regulations for the bill on a website which has some prescription. It may be possible to take into account some of the concerns embodied in the amendment in that regulatory framework. I think we have another ministerial council meeting in December, so it may be worth the honourable member, and if he can rally others to his cause, making a submission to the MCE about including such a matter in the regulations.

It seems to me that it is not entirely inconsistent with the logic of a merits review, and such like. I certainly would not support something that tied people up in frivolous reviews, but I am sure that there are ways to achieve that. So, what I would suggest is that, while I cannot accept the amendment, if the honourable member is interested it might be worthwhile talking to the MCE, which will be meeting again in December, and—forgive me for my bias—hopefully with a different federal minister.

Mr HANNA: I thank the minister for his consideration and his reasonable suggestion.

Amendment negatived; clause passed.

Remaining clauses (6 to 12), schedule and title passed.

Bill reported without amendment.

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy) (12:36): I move:

That this bill be now read a third time.

In moving the third reading, I want to apologise to the member for MacKillop because I missed a question he asked during the second reading debate about which auditor-general would audit the consumer advocacy body established. It is, in fact, the state Auditor-General, who has been auditing this body since 2004. This body is established as a South Australian statutory authority, basically as a child of the previous NECA (National Electricity Code Administrator), which used to be based in South Australia. However, we lost that argument in the new regime, so this is a South Australian statutory authority that does its work out of New South Wales, which is a little peculiar. It has been subject to the audit of the Auditor-General for some time, and so this advocacy panel attached to it will also.

Bill read a third time and passed.

WEST BEACH RECREATION RESERVE (BOATING FACILITIES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 25 September 2007. Page 893.)

Dr McFETRIDGE (Morphett) (12:38): I am the lead speaker for the opposition on this bill, but I will not be taking much of the house's time. The opposition supports this change to the West Beach Recreation Reserve Act. I preface my further comments on the changes to the act by saying that the West Beach Trust has been managing this area for a number of years now. The recreation reserve was created in 1987, under the West Beach Recreation Reserve Act, and it includes a number of facilities that were in my electorate of Morphett.

However, with the development of the Holdfast Shores area, the Glenelg Sailing Club, the boat ramp previously located on the Pat, and the Glenelg Lacrosse Club have all moved down to occupy land that is part of the Adelaide Shores area, as it is known now, which is administered by the West Beach Trust. The Glenelg Sailing Club, which is now part of the Adelaide Sailing Club, is located alongside the Sea Rescue Squadron. The national award-winning caravan park is also located in the area and, as I have said, the Glenelg Lacrosse Club has moved and is now located on land on the eastern side of Military Road. The headquarters of Sports SA is also located down there, as well as the Westward Ho Golf Club and a number of other facilities.

The changes to the West Beach Recreation Reserve Act in 2002 gave the board control of the boating facility areas, the hard stand and, more importantly, the boat ramp at West Beach. The act itself, which described the functions and powers of the trust, did not actually include the

administration of boating facilities and the encouragement of boating and other ancillary industries down there. However, we now have there a fantastic boat ramp, boat storage facilities, hard stands and also some commercial facilities.

The bill inserts a provision which describes a designated place where boats may be launched, moored and stored and where ancillary associated services may be provided, and there is a provision defining 'designated area'. This gives the board the statutory authority to do what it already does according to its strategic plan; that is, to promote the area as a sporting and recreation area with a holiday village, a caravan resort, golf courses and a boat haven. With those comments, we support the bill.

Mr VENNING (Schubert) (12:41): I want to support the shadow minister. My family's affiliation with the West Beach—

The Hon. M.J. Atkinson interjecting:

Mr VENNING: Madam Deputy Speaker, I do not know what motivates the Attorney-General to say things like that. I will stay here as long as I wish.

The Hon. P.F. Conlon: I like you, Ivan, you're a good bloke; stay as long as you wish.

Mr VENNING: Madam Deputy Speaker, if I can have some protection, I will continue with what I want to say. I rise to speak in this debate, because I have a long affiliation with the West Beach Trust, which goes back to the time of the late ministers Murray Hill and Virgo. In our younger days, we used to holiday at the West Beach Caravan Park and the kids used to go to Marineland and have a wonderful time. I had good counsel. Before I was even an MP, I used to discuss matters of administration and facilitation of the asset to what it currently is today for the holidaying public, particularly the families who frequently visit that park. It has been a fantastic success story, especially when we observe what is there today. I would like to commend the West Beach Trust, particularly bearing in mind that it has had to deal with governments of all persuasions, and it has done that with great aplomb.

As the shadow minister just said, this bill is mainly about including the new facilities that were controversially built down there. As I go on my morning or late evening runs—and I would say not often enough before the Attorney-General states the obvious—I view what happens down there. It is a pity that it is continually dredged, and it concerns me that that decision was made. Irrespective of that—

The Hon. M.J. Atkinson: A decision made by your government.

Mr VENNING: Don't state the obvious. All I can say to the Attorney-General is: read *Hansard.* It is certainly a wonderful facility but I think it could be improved; you need only visit other states to see the restaurants, etc., along the waterfront sites. I think we could do with much more of that, particularly in this region.

The Hon. P.F. Conlon: I've got an idea.

Mr VENNING: The minister has an idea; that is dangerous! Fix-it Pat has an idea. I hope he has, and I hope that he brings it out quickly, because he will be out of government before he realises. So, please bring it on early, because—

The Hon. M.J. Atkinson: I can see the locomotive coming.

Mr VENNING: I can—I can see the light. I hope that the West Beach Trust can be involved in such facilities, particularly as clause 3 (1)(a)(iii) of this bill is all about making the West Beach Trust responsible for the boats and boating facilities, etc. I hope that we are not giving them a poisoned chalice, because there will be an ongoing expense. I do not want to play politics with this, as they are obvious, and I do not want to fall into the trap that the Attorney-General has just put out for me. I hope that we are not handing them a poisoned chalice and that they will have to pick up a liability; I hope that this bill makes that quite clear. The ongoing costs of the dredging also concern me.

Before I sit down, I hope that the minister does have an idea and that it includes more restaurants in this area, because there is a great opportunity at this facility. The yacht club has very good restaurant facilities, and I went there once with the member for Morphett's predecessor (Hon. John Oswald). These need to be promoted more and used more by the public, as every other state really pushes their restaurants that have a waterfront view. I think that we can do more,

and this presents a huge opportunity. I support the bill and commend the minister and the shadow minister for the way they have carried the bill.

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy) (12:46): I thank the opposition for its support. This is a facility I think I had a debate about in my first week in parliament. I am a man who has always been prepared to move on and use the facility, albeit far too infrequently. I thank the opposition for its support.

Bill read a second time and taken through its remaining stages.

[Sitting suspended from 12:47 to 14:00]

SOUTH AUSTRALIAN PORTS (DISPOSAL OF MARITIME ASSETS) (MISCELLANEOUS) AMENDMENT BILL

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

ELECTION OF SENATORS (CLOSE OF ROLLS) AMENDMENT BILL

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

SUMMARY PROCEDURE (PAEDOPHILE RESTRAINING ORDERS) AMENDMENT BILL

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

SOLID WASTE LEVY

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition): Presented a petition signed by 76 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.

SOLID WASTE LEVY

The Hon. G.M. GUNN (Stuart): Presented a petition signed by 229 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.

SOLID WASTE LEVY

Mrs PENFOLD (Flinders): Presented a petition signed by 112 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.

VOLUNTARY EUTHANASIA

Ms BEDFORD (Florey): Presented a petition signed by 439 residents of South Australia requesting the house to support the Voluntary Euthanasia Bill 2006 to enable law reform in South Australia to give citizens the right to choose voluntary euthanasia for themselves.

AUDITOR-GENERAL'S REPORT

The SPEAKER: I lay on the table the 2006-07 annual report of the Auditor-General, including: Part A, Audit Overview; Part B, Agency Audit Reports—Volumes I, II, III, IV and V; and Part C, State Finances and Related Matters.

Ordered to be published.

ANSWERS TO 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*.

LONG FLAT IRRIGATION TRUST

In reply to **Mr PEDERICK (Hammond)** (7 June 2007).

The Hon. K.A. MAYWALD (Chaffey—Minister for the River Murray, Minister for Water Security, Minister for Regional Development, Minister for Small Business, Minister Assisting the Minister for Industry and Trade): I am advised that guidelines for the restructuring and rehabilitation of the Lower Murray Reclaimed Irrigation Area (LMRIA) were approved in December

2003 by the then Minister for Environment and Conservation. The opportunity for restructuring then became available with some irrigators retiring from irrigation, while others consolidated their landholding. At the end of that process, there were 24 private irrigation trusts containing one or more irrigators actively farming in the LMRIA area.

In February 2005, the first irrigation trust signed their Rehabilitation Funding Deeds. Seventy five percent of irrigation trusts (18 out of 24) had signed their deeds by the end of 2005, and by the end of June 2007, all but the small irrigation district of Burdett had signed. The Burdett deed will be finalised for consideration of the irrigators once specific design issues are addressed. In relation to Long Flat, the funding deed was signed in June 2007.

TOTAL EMPLOYMENT COST

In reply to **Mr GOLDSWORTHY (Kavel)** (23 October 2006).

The Hon. J.M. RANKINE (Wright—Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Volunteers, Minister for Consumer Affairs, Minister Assisting in Early Childhood Development): Positions with a TEC of $100,000 or more (Between 30 June 2005 and 30 June 2006) I refer the Member to the Auditor-General's Report for the year ended 30 June 2006, Part B Agency Audit Reports, Volume 2, Page 457, Note 6.

The Office for Women as at 30 June 2006 has one employee, the Director, whose total employment cost is $100,000 or more. The Office for Women has no employees whose total employment cost is $200,000 or more.

Positions Abolished

Department/Agency	Position Title	TEC Cost
Office for Women	N/A No positions abolished	N/A No positions abolished

Positions Created

Department/Agency	Position Title	TEC Cost
Office for Women	N/A No positions created	N/A No positions created

BUSINESS GROWTH PROGRAM

81 Dr McFETRIDGE (Morphett) (31 July 2007). With respect to the Business Growth Program:

(a) what are the details of payments to consultants for 2005-06, 2006-07 and 2007-08;

(b) what organisations received consultancy payments, how much did they receive and what projects did they undertake; and

(c) why were payments to consultants only $67,000 for 2006-07, when $300,000 was allocated?

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Industry and Trade, Minister for Federal/State Relations): The Department of Trade and Economic Development (DTED) has advised the following:

(a) Details of payments to consultants for 2005-06 are as follows:

Consultant	Description	Amount $'000
Mr Paul Wirth	To explore new foundry investments for Lonsdale Mitsubishi Plant	21
Playford Capital	Commercialisation company report	11
De Brenni Associates	Broadband Report	4

Robert Taylor & Associates Pty Ltd	Technology based Incubator Scoping Study	10
Dumais Consulting Services Pty Ltd	Concept Report - SA Embedded Software Incubator/Design Centre	5
Inventure Partners Pty Ltd	Independent review of company operations	17
Inventure Partners Pty Ltd	Preparation of an Information Memorandum	40
Raymond Grigg	Fees to Chair the High Level Automotive Group	12
Iannella Gaskin Cutone	Independent review of company operations	3

Details of payments to consultants for 2006-07 are as follows:

Consultant	Description	Amount $'000
Inventure	Report on the Automotive Industry restructuring	40

Consultancies planned for 2007-08 relate to independent reviews of the automotive industry.

(b) Refer to part A.

(c) An initial budget of $300,000 was allocated for consultancies in 2006-07; however, this was amended to reflect the requirement for consultants during the year. The main factors contributing to the reduction were that reviews were undertaken by officers within the Department rather than engaging private sector consultants.

The $67,000 referred to is an estimated figure at the time of preparation of the Budget Papers. $40,000 is the actual expenditure for 2006-07.

GEPPS CROSS INTERSECTION

98 Dr McFETRIDGE (Morphett) (31 July 2007).

1. What progress has been made on the Gepps Cross intersection to be incorporated as a federally funded project?

2. How much funding has been provided by the Federal Government for study and traffic assessment?

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy): I provide the following information:

The Gepps Cross Intersection was submitted to the Federal Department of Transport and Regional Services (2nd July 2007) in a list of projects to be considered for funding under AusLink 2 (commencing 2009-10). The State government is yet to receive a response to the submission. Any investigations undertaken so far have been fully State funded.

BLACK SPOT PROGRAM

102 Dr McFETRIDGE (Morphett) (31 July 2007). Why has State 'Black Spot' funding decreased from the budgeted amount of $5.2 million in 2006-07 to $4.6 million in 2007-08 and why has there been an underspend of $627,000 between the budgeted and estimated result in 2006-07?

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy): I provide the following information:

The amounts reported in the budget papers represent the capital component of the State Black Spot expenditure only. It does not include expenditure that is operating in nature, such as grants paid to Local Government. Overall the State Black Spot program has increased from a budgeted $7 million in 2006-07 to $7.2 million in 2007-08. During 2006-07, an adjustment to the investing component of the State Black Spot program was made to reflect the grants under the program for council owned works. The grants are operating in nature, resulting in a variation to the amount reported under the Department for Transport, Energy and Infrastructure's Investing Payments Summary of $627,000.

POLICY AND PLANNING PROGRAM

103 Dr McFETRIDGE (Morphett) (31 July 2007). Why has the budgeted amount for 'employee benefits and costs' under the Policy and Planning Program increased by $2.4 million in 2007-08?

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy): I provide the following information:

The 2007-08 Budget for the Policy and Planning Program includes:

- the transfer of expenditure previously allocated to Sub-program 2.1 ‘Operating and Maintaining Roads' and Sub-program 3.1 ‘Driver and Vehicle Regulations';
- The reallocation of Corporate overhead charges originally budgeted to ‘supplies and services'; and
- enterprise bargaining increases to salaries and wages.

POLICY AND PLANNING PROGRAM

104 Dr McFETRIDGE (Morphett) (31 July 2007). What are the details of the $669,000 allocation to 'grants and subsidies' under the Policy and Planning Program in 2007-08?

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy): I provide the following information:

The $669,000 allocation to 'grants and subsidies' under the Policy and Planning Program in 2007-08 is for the Overland Rail subsidy paid to Great Southern Railway, the subscription to National Transport Commission, and Aviation grants paid to the Local Government Mutual Liability Scheme and Westwing Aviation.

POLICY AND PLANNING PROGRAM

105 Dr McFETRIDGE (Morphett) (31 July 2007).

1. Why has income from the 'sale of goods and services' under the Policy and Planning Program decreased by $184,000 in 2007-08?

2. What sources of income contribute to the $52,000 in 'other' income for 2007-08?

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy): I provide the following information:

The 2006-07 Budget included an internal contribution to the Office of the Chief Executive for administrative functions and executive support. The budget provision for the Office of the Chief Executive is contained within the Policy and Planning Program. This contribution is not required in 2007-08.

The $52,000 in 'other' income for 2007-08 relates to the 3.8 per cent CPI increase in fees under the Development Regulations 1993. This revenue is more appropriately represented in Planning SA and will be transferred during the year.

TRANSPORT INFRASTRUCTURE SERVICES PROGRAM

107 Dr McFETRIDGE (Morphett) (31 July 2007). What projects are envisaged by the $44.2 million increase in Commonwealth Revenue under the Transport Infrastructure Services Program in 2007-08?

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy): I provide the following information:

The Transport Infrastructure Services Program shows a Commonwealth revenue budget increase of $44 million between 2006-07 and 2007-08. This is largely due to:

- Northern Expressway project in 2007-08;
- Sturt Highway Upgrade Package in 2007-08; and
- Completion of the Port River Expressway and associated road and rail works in 2007-08.

FINANCIAL RECONCILIATION

110 Dr McFETRIDGE (Morphett) (31 July 2007). Have independent verification processes been implemented to ensure that reconciliations for payroll, accounts payable and accounts receivable within the Department are completed in a timely manner and, if not, why not?

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy): I provide the following information:

The Department has implemented independent verification processes to ensure that reconciliations for payroll, accounts payable and accounts receivable are completed in a timely manner.

PAYROLL PROCEDURES

111 Dr McFETRIDGE (Morphett) (31 July 2007). Has the Department implemented new processes to review certificates and leave return registers, and are reports returned to payroll in a timely manner and follow ups undertaken for non-compliance?

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy): I provide the following information:

The Department has implemented the following new processes to review certificates and leave return registers

- An automated system has been developed and is being implemented to assist with reviewing, returning and following up on non-compliance
- A revised policy has been issued to draw all managers' attention to the requirement for certificates and leave returns to be completed in a timely manner
- Manual processes have been strengthened to include the forwarding on a fortnightly basis of reminder notices and, if necessary, second reminders are issued.

Payroll and employee services for the former DAIS Divisions are provided by the Department of Treasury and Finance (DTF).

OVERTAKING LANES

122 Dr McFETRIDGE (Morphett) (31 July 2007). Has any Federal funding been included in the $7.4 million for the Overtaking Lanes Program, the $2 million for Rural Road Improvements Programs or the $7.2 million on the Shoulder Sealing Program?

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy): I provide the following information:

The allocations for the Overtaking Lanes Program, Rural Road Improvements and the Shoulder Sealing Program are entirely from State Government funds.

GROWING PROSPERITY PROGRAM

123 Dr McFETRIDGE (Morphett) (31 July 2007). What are the respective State and Federal Government contributions for each project listed under the Growing Prosperity Program in 2007-08?

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy): I provide the following information:

GROWING PROSPERITY PROGRAM 2007-08

		2007-08 Budget $000	State Contribution on $000	Aust Gov Contribution on $000
New Works				
	South Road Upgrade—Glenelg Tram Crossing Project	7,000	7,000	
	Green Triangle Railway	10,000	10,000	
	Broadband Strategy	2,596	2,596	
	Freight Network Improvement Program	5,000	5,000	
	Land Services Business Reform	1,738	1,738	
	Torrens Building Stage 2	1,728	1,728	
	Marine Infrastructure—A Safe Marine Transport System	1,000	1,000	
	e-business Enhancements	2,150	2,150	
	AusLink 2 investment projects	900	900	
Works in Progress				
	Northern Expressway	75,400	7,400	68 000
	AusLink Programs (excluding Port River & Northern Expressways)	23,240		23,240
	Upgrading the Sturt Highway	30,000		30,000
	South Road Underpass of Anzac Highway	42,855	42,855	
	Port River Expressway (Road and Rail Bridge)	30,453	25,753	4,700
	South Road Upgrade, Grange Road to Torrens Road	28,482	28,482	
	Bakewell Bridge	9,253	9,253	
	Long Life Roads	13,000	13,000	
	Mawson Lakes Development	2,464	2,464	
	Automated Torrens Lands Title Administration System (ATLAS) stage 3	2,000	2,000	
	Education Centre—Base Building Works	200	200	
Minor Works				
	Transport System Responsiveness—Minor Works	3,645	3,645	
	AusLink Minor Works	1,280		1,280
	Fishing Industries Facilities Upgrade—Minor Works	410	410	
	Annual Program—Energy	308	308	
	Annual Provision—ex DAIS	1,788	1,788	
	Annual Program—Commercial Properties	5,253	5,253	

GROWING PROSPERITY PROGRAM 2007-08				
		2007-08 Budget $000	State Contribution on $000	Aust Gov Contribution on $000
	Ayers House	96	96	
	Netley Commercial Park Works & Refurbishment	2,500	2,500	
	PABX Upgrades	695	695	
	Purchase of Handsets	513	513	
	Residential Properties (SAGERP)	4,955	4,955	
Total Investing Payments		310,902	183,682	127,220

MASS ACTION PROGRAM

125 Dr McFETRIDGE (Morphett) (31 July 2007). What specifically does the $1.2 million in funding for 'Mass Action' entail?

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy): I provide the following information:

The $1.2 million funding under the Mass Action Program in 2007-08 is allocated for safety improvements on the Noarlunga to Cape Jervis Road between Myponga and Yankalilla.

TRANSPORT INFRASTRUCTURE

126 Dr McFETRIDGE (Morphett) (31 July 2007). What are the individual project costs listed under Public Transport 'minor works' and Auslink 'minor works' in 2007-08?

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy): I provide the following information:

Public Transport—Minor Works:

Projects in 2007-08 include:	$
Ticketing system and associated costs	240,000
ICT Costs	120,000
Office Equipment	40,000
General Public Transport Infrastructure	133,000
Total	533,000

AusLink Minor Works:

The AusLink Minor Works program funds minor improvements on the AusLink Network. Total budget for AusLink Minor Works is $2.0 million for 2007-08 (Budget Paper 5 Page 32 quotes investing component only). These types of works are managed as part of the overall maintenance allocation for the AusLink network from the Commonwealth Government.

Projects in 2007-08 include:	$
Intersection/Junction Improvements	
• Installation of acceleration lane out of Princes Hwy onto Dukes Highway	80,000
• Port Augusta to Port Wakefield Road/Warnertown to	120,000

Projects in 2007-08 include:	$
Jamestown Road intersection–extension of right turn lane	
Improvements to protect motorists from roadside hazards • Install centre barrier and widen seal to separate lanes for 2km section on Port Augusta to Port Wakefield Road between Pt Wakefield township & start of duplication. • Install 400m of guard fence on Eyre Highway from Port Augusta to Lincoln Highway turnoff. • Remove old safety bars and install Reflective Raised Pavement Markers on Port Augusta to Port Wakefield Road various locations	500,000 50,000 30,000
Driver Fatigue Management • Rest Area Improvements on RN3500 Pt Wakefield—Pt Augusta • Installation of Audio Tactile Line Marking on the AusLink Network at various locations	365,000
Improvements to median drainage on the Princess Highway near Mobil service station at the western end of Tailem Bend.	80,000
Improvements for the safety of Pedestrians, Cyclists & Disabled Users includes • Installation of pedestrian refuge with kerb ramps / handrails etc on Hampstead Road opposite Hampstead Rehabilitation Centre.	50,000
Replacement of Uninterrupted Power Supply unit in the Heysen Tunnel, South Eastern Freeway	345,000
Installation of seismic retrofit to the Port Augusta Bridge on Eyre Highway, Port Augusta	300,000
Under grounding of Powerlines—Stage 2 of Truro upgrade on Sturt Highway	80,000
Total	2,000,000

TRANSPORT INFRASTRUCTURE

127 Dr McFETRIDGE (Morphett) (31 July 2007).

1. Has the Department changed current arrangements in relation to the 'value of exclusions'?

2. Have the relevant changes to accounting policies, procedures and systems for recording capital works expenditure been made to meet the Auditor-General's recommendations and Australian Accounting Standards?

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy): I provide the following information:

The department has implemented an interim manual process to identify and expense exclusion costs for all projects greater than $1 million. The department has initiated a process of annual review of all major capital projects to facilitate timely identification and expensing of costs that do not meet the asset recognition criteria.

EMPLOYEES, FULL TIME

129 Dr McFETRIDGE (Morphett) (31 July 2007). Why was there an increase of 1,012 Departmental full time employees in 2006-07 and how many were transferred over from the former DAIS?

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy): I provide the following information:

The increase of 1,012 spans across two financial years, from the actual full time equivalent (FTE) figure recorded at June 2005-06, and through 2006-07, to the 2007-08 budget estimate. 934.5 FTEs were transferred over from the former DAIS on 1 October 2006.

PUBLIC SECTOR SEPARATION PACKAGES

131 Dr McFETRIDGE (Morphett) (31 July 2007). How many targeted voluntary separation packages were taken by departmental employees in 2006-07 and what was the total value of these packages?

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy): I provide the following information:

There were no employees of the department who took a targeted voluntary separation package in 2006-07.

FEDERAL FUNDING

132 Dr McFETRIDGE (Morphett) (31 July 2007). How much federal funding will the department receive for investing in projects in 2007-08 and specifically, how much federal funding was received for 2006-07 and 2007-08 for the Northern Expressway and the upgrade of the Sturt Highway?

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy): I provide the following information:

Within the 2007-08 Budget Papers, the department has reported the following federal funding for investing in projects in 2007-08:

- AusLink road construction $87.3 million
- Black Spot Programs $3.49 million
- Roads to Recovery $3.1 million.

The following amounts for the Northern Expressway and the upgrade of the Sturt Highway in 2006-07 and 2007-08 are:

	2006-07	2007-08
	$ million	$ million
Northern Expressway	10.6	68.0
Sturt Highway Upgrade	30.0	6.0

INTEREST PAYMENTS

134 Dr McFETRIDGE (Morphett) (31 July 2007).

1. What will be the interest percentage paid on the extra $48.7 million in payables outlined under current liabilities in the Balance Sheet for 2007-08?

2. What are the forecast ‘payable' figures over the next four years for the department and how will the department meet these increased payment requirements out of revenue?

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy) I provide the following information:

The payables outlined under current liabilities in the Balance Sheet for 2007-08 includes creditors, accrued payables, accrued employee costs, other accrued expenses, accrued superannuation contributions, and other payables. These items are short term liabilities that do not generally incur an interest charge.

The current forecast payables for the next four years remain the same as for 2006-07.

LONG TERM BORROWINGS

135 Dr McFETRIDGE (Morphett) (31 July 2007).

1. What financial intermediaries are Long Term Borrowings made out to and what are the forecasts over the next four years?

2. How much does the government expect repayments to increase as a result of increases to Long Term Borrowings?

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy): I provide the following information:

The department's 2006-07 long term borrowing of $102.282 million consists of:

(a) $21.522 million of finance lease liabilities predominately for Roma Mitchell House.

(b) Long term borrowings from the Treasurer for:

- Buses and depots
- Indenture ports
- West Lake revetments
- O-Bahn busway
- Government Employee Housing

The department does not plan to repay the loan liability to the Treasurer over the next four years.

The increase in long term borrowings arises from the transfer of pre-existing borrowings from the former DAIS business units to the department. This does not result in an increase to government's repayment of borrowings.

TRANSPORT SECURITY

136 Dr McFETRIDGE (Morphett) (31 July 2007). Why has no funding been allocated for Transport Security in 2007-08?

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy): I provide the following information:

Transport security funding allocated in 2006-07 reflected the capital requirements for the installation of Closed Circuit TV (CCTV) in the bus fleet and other security requirements. Capital works associated with this were completed in 2006-07. All buses are now fitted with CCTV.

DTEI has ongoing funding available for transport security within its operating budget

ROAD MAINTENANCE

137 Dr McFETRIDGE (Morphett) (31 July 2007).

1. Why is the State Government spending $14 million over 4 years on road maintenance, when the RAA and other Industry groups claim there is a $200 million backlog?

2. What are the details of all operating and road maintenance projects including, and the cost allocated to each project and completion date?

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy): I provide the following information:

Budget paper 3, page 2.13 to 2.15 provides details on the ‘additional resources for the upgrade of the states transport infrastructure'. These resources are additional to the amounts already provided in the forward estimates. The full amount is included in the expenditure figures provided in Budget paper 4, volume 2—page 6.27, subprogram 2.1 ‘Operating and Maintaining Roads'.

The additional $14.1 million over 4 years for road maintenance results in the total budgeted operating expenditure of over $400 million over 4 years for road maintenance.

TRANSPORT INITIATIVES

138 Dr McFETRIDGE (Morphett) (31 July 2007).

1. How much of the $542 million allocated for transport initiatives over the next four years, how much is Federal Government, State Government and Private Sector funding, respectively?

2. How much of the Private Sector funding is expected to come from private equity and private public partnerships and what other sources of private sector funding will be utilised?

3. How much of the State Government funding and what percentage of the $542 million allocation will be sourced through borrowings and what will the rate of return and repayments be per year on these borrowings?

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy): I provide the following information:

The $542 million allocated for transport initiatives over the next four years represents State Government funding only.

No part of the $542 million allocated for transport initiatives over the next four years is Private Sector funding.

Of the $542 million allocation from State Government funding there is no percentage being sourced through borrowings.

MARINE INFRASTRUCTURE

153 Dr McFETRIDGE (Morphett) (31 July 2007). Why has only $l million been allocated for the 2007 08 financial year for marine infrastructure?

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy): I provide the following information:

The full amount of operating expenditure for 2007-08 is included in the expenditure figures provided in Budget paper 4, volume 2 page 6.28, sub program 2.2 ‘Operating and Maintaining the Marine System'. The additional operating and investing expenditure provided in 2007-08 is $1.65 million.

The full amount of investing expenditure on marine infrastructure in 2007-08 is provided in Budget paper 3, Capital Investment Statement, including Marine Infrastructure, Rapid Bay Jetty and Fishing Industries Facilities.

In total, over $12 million is provided in the 2007-08 financial year for the maintenance, development and operation of marine infrastructure

OVERTAKING LANES

154 Dr McFETRIDGE (Morphett) (31 July 2007).

1. What is the expected forward expenditure requirements for the State's overtaking lanes and what are the reasons for not including these forward expenditure requirements in the Budget?

2. How many overtaking lanes have been planned and where are they to be constructed?

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy): I provide the following information:

2007-08 is the final year of the current approved Overtaking Lane Program. Any extension of the program will be subject to normal budgetary processes.

$7.4 million has been allocated to the Overtaking Lane Program in 2007-08. Four lanes will be constructed in 2007-08. They are:

- Victor Harbor Road (Mt Compass to Mt Compass—Goolwa Road)
- Riddoch Highway northbound lane (north of Nangwarry)
- Riddoch Highway southbound lane (south of Nangwarry)
- Noarlunga Cape Jervis southbound lane (near Lady Bay)

ROAD SEALING

158 Dr McFETRIDGE (Morphett) (31 July 2007). What are the details of the $7.2 million Shoulder Sealing Program in 2007-08?

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy): I provide the following information:

As shoulder sealing is a safety related infrastructure improvement the 2007-08 Shoulder Sealing Program falls within the portfolio responsibility of the Minister for Road Safety. The Hon Carmel Zollo MLC has advised that the $7.2 million allocated to the Shoulder Sealing Program in 2007-08 will deliver approximately 120km of works at:

- Barrier Highway—Main North Road to Burra
- Riddoch Highway—Keith to Padthaway
- Gawler to Kersbrook
- Tea Tree Gully—Mannum
- Kadina to Moonta
- Main North Road
- Flinders Highway
- Riddoch Highway—Naracoorte to Mt Gambier
- Streaky Bay to Poochera
- Mt Crawford to Mt Pleasant
- Echunga to Meadows
- Gorge Road
- Flinders Highway—Coffin Bay turnoff to Todd Highway
- Barossa Valley Way
- Lyndoch to Chain of Ponds
- Lincoln Highway—Whyalla to Port Augusta

RAIL, STANDARD GAUGE

167 Dr McFETRIDGE (Morphett) (31 July 2007). When will funding be allocated to standardise the remaining broad gauge rail lines in South Australia to allow connection to the national standard gauge rail lines to facilitate interstate export opportunities and assist economic growth in South Australia?

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy): I provide the following information:

$10 million has been allocated in 2007-08 to assist with the standardisation and upgrade of the railway lines in the South East of South Australia. All future upgrades of TransAdelaide's assets will include gauge standardisation to be included in the design, where it is practically achievable. Currently all concrete sleepers and level crossing upgrades (for example, the recent upgrade of the level crossing over Port Road for the Grange line) are gauge convertible, or allow standard gauge operation.

WATERFALL GULLY ROAD

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy): I provide the following information:

Waterfall Gully Road is a local road under the care, control and management of the Department for Transport, Energy and Infrastructure (DTEI). DTEI maintains all roads to a maintenance specification. Repair works are undertaken continuously in accordance with this specification.

PAPERS

The following papers were laid on the table:

By the Premier (Hon. M.D. Rann)—

ANZAC Day Commemoration Council—Report 2006-2007
Operations of the Auditor-General's Department—Report 2006-2007

By the Deputy Premier (Hon. K.O. Foley)—

Witness Protection Act 1996—Report 2006-2007

By the Treasurer (Hon. K.O. Foley)—

Transparency Statement—Water and Wastewater Prices in Metropolitan and Regional South Australia 2007-2008—dated January 2007

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

Adelaide Cemeteries Authority—Report 2006-2007
West Beach Trust Annual Report—Report 2006-2007
Development Act—
    Local Heritage Plan Amendment Report—City of West Torrens
Regulations under the following Act—
    Development—Statement of Intent

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

Electricity Supply Industry Planning Council—Report 2006-2007
South Australian Rail Regulation—Report 2006-2007
Tarcoola-Darwin Rail Regulation—Report 2006-2007
Regulations under the following Act—
    National Electricity (South Australia)—Civil Monetary Liabilities

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

Listening and Surveillance Devices Act 1972—Report 2007
Police Complaints Authority Report—pursuant to Section 57 of the Criminal Law (Forensic Procedures) Act 2007—dated 14 September 2007
Suppression Orders Report made pursuant to Section 71 of the Evidence Act 1929
Rules of Court—
    District Court—Criminal and Miscellaneous
    Supreme Court—Sexual Offences

By the Minister for Health (Hon. J.D. Hill)—

Adelaide Dolphin Sanctuary Act 2005—Report 2006-2007
Controlled Substances Advisory Council—Report 2006-2007
Zero Waste SA—Report 2006-2007
Vulkathunha-Gammon Ranges National Park Co-Management Board—Report 2006-2007
Regulations under the following Acts—
    Food—Enforcement Agencies
    Optometry Practice—Registration

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

State Procurement Board—Report 2006-2007

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

Office for the Ageing (Activities associated with the administration of the Retirement Villages Act 1987)—Registrar's Report 2006-2007

By the Minister for State/Local Government Relations (Hon. J.M. Rankine)—

Local Government Finance Authority of South Australia—Report 2007

By the Minister for Consumer Affairs (Hon. J.M. Rankine)—

Regulations under the following Act—
Liquor Licensing—Kadina

SANTOS

The Hon. M.D. RANN (Ramsay—Premier, Minister for Economic Development, Minister for Social Inclusion, Minister for the Arts, Minister for Sustainability and Climate Change) (14:05): I seek leave to make a ministerial statement.

Leave granted.

The Hon. M.D. RANN: Today the South Australian government has taken the historic step of agreeing to proceed with the removal of the 15 per cent shareholding cap that applies currently to SANTOS. The government will move to introduce legislation into the parliament as soon as practicable, and the shareholding cap will be lifted 12 months after the repealing legislation comes into effect. This follows a review of the 28 year old SANTOS shareholding restriction that was introduced by the former Corcoran government to prevent a takeover of the Cooper Basin assets by Alan Bond. Never has a premier been more wise in protecting South Australia's energy reserves from a corporate raider like Alan Bond.

The legislation protected SANTOS and the state's security of gas supplies. However, the company now believes the cap inhibits its growth potential. The legislation was introduced to prevent the loss of SANTOS, but now the cap is being lifted to allow SANTOS to grow in South Australia, nationally and internationally. The government has consistently stated that it would only consider the removal of the share cap if the state can be assured that this is in the interests of the people of South Australia.

Right from the start, after SANTOS asked the government to review the cap, the government has said, 'We will operate on one overriding principle: what is in the best interests of South Australia? What is it in for South Australia?' In particular, the state has sought guarantees to ensure an ongoing and strong corporate presence in South Australia and an enduring contribution to the development of the state, even if SANTOS was eventually to be taken over.

For the benefit of the Leader of the Opposition, who has made some statements on this issue, that is precisely what his fellow Liberal commonwealth ministers urged the South Australian government to do. We want to see SANTOS grow and we want to ensure that South Australia benefits from SANTOS's growth. In consideration of this matter, SANTOS has provided a deed of undertaking to the state—signed by SANTOS chairman, Stephen Gerlach—regarding the continuation of the corporate presence and contribution of SANTOS to the state.

Unlike any other company in South Australia, if we lift the cap, we get a guarantee of corporate presence in South Australia and also a guarantee of increased sponsorship by SANTOS in this state. It is not a deed of understanding: this is a deed of undertaking that is legally enforceable. The deed of undertaking provided by SANTOS provides three fundamental commitments which guarantee a strong and ongoing commitment by SANTOS to the state of South Australia. These include:

- A continuing SANTOS presence in South Australia of effectively 90 per cent of the current South Australian-based roles, which includes 100 per cent of the roles at its major South Australian operational sites. This equates currently to approximately 1,700 jobs in South Australia. Even if SANTOS were to be taken over in the future, that guarantee is in place.
- A social responsibility and community benefits fund of some $60 million over 10 years to be applied to a range of community development purposes. SANTOS has been a big corporate sponsor of the arts, universities and sport in this state. What we have done is gone further. In addition to the continuation of those existing sponsorships, we have secured support for the Royal Institution of Science, $5 million; support for funding for educational initiatives, including the University City and for scholarships; and also support for a major indigenous program. This is a win-win for South Australia and SANTOS.

- These commitments will be supported by a $100 million legally enforceable compensation mechanism—a break clause—should there be a significant reduction in corporate presence. That is something which is a unique feature of the deal. This is a 10-year deal, but there is a break clause.

If some company takes over SANTOS it will have to pay $100 million in compensation to the state. The SANTOS deed of undertaking provides a platform for the future growth and development of the company while also providing assured ongoing benefits to South Australia. In order for this to happen the parliament must agree to legislative changes. I call upon all members of parliament—the opposition and members of the upper house—to put aside any temptation they may have to play games with the repealing of the cap and to put South Australia first. For years people have said that the cap imposes an undue restriction on the ability of SANTOS to grow. Not only was it an impediment to growth but it was also an impediment to an increase in shareholder value. This will allow SANTOS to step up to the plate. It will allow SANTOS to grow. It will also ensure that we have in place a deed of undertaking that covers 10 years which provides for substantial benefits for South Australia.

YOUTH JUSTICE REFORMS

The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs) (14:14): I seek leave to make a ministerial statement.

Leave granted.

The Hon. M.J. ATKINSON: I rise to make a statement on youth justice reforms that the government will be introducing to parliament in response to Monsignor Cappo's report—To Break the Cycle. When the report was published by the Premier in August, the government pledged to begin forthwith carrying out the 16 recommendations identified by Monsignor Cappo as urgent. I can inform members that the process of implementation is on track with those 16 recommendations wholly or in part already acted upon. Today I am outlining what legislative changes the government will be introducing to not only meet but also exceed the report's legislative recommendations on juvenile justice and public safety. These laws will allow serious repeat juvenile offenders to be tried as adults and give courts the authority to take into account public safety when sentencing young offenders (as a principal criterion).

The Hon. G.M. Gunn interjecting:

The Hon. M.J. ATKINSON: The government will also for the first time establish a youth parole board to deal specifically with recidivist young offenders.

Ms Chapman interjecting:

The SPEAKER: Order!

The Hon. M.J. ATKINSON: I share the concerns of those (like the member for Stuart) who feel that a hard core of young recidivist offenders are going straight back into crime after serving their sentence of youth detention. The revolving door is being bolted shut. Under the new legislation the Youth Court, when sentencing a young offender, can declare the offender to be a recidivist young offender. As such, that offender will have to face the youth parole board before release back into society. The youth parole board would review the offender's progress and determine whether to release the recidivist young offender. It would not order the release of the offender without taking into account matters such as public safety and the impact the release would have on a registered victim or a registered victim's family. The board can then set conditions for release and, if the offender breaches those conditions, police will then be allowed to apply directly to the board to return the offender to detention.

The Hon. R.B. Such interjecting:

The Hon. M.J. ATKINSON: The member for Fisher interjects about deterrence. General deterrence will be one of the criteria. That gives these recidivist offenders a clear message: break the terms of your release and you face going straight back inside. The youth parole board would be chaired by a judge of the Youth Court and include among its members someone with experience of the impact of crime on victims and a serving or former police officer with experience in the rehabilitation of young offenders.

The Hon. G.M. Gunn: Sam Bass?

The Hon. M.J. ATKINSON: I don't know that Sam had much experience in rehabilitation.

The Hon. P.F. Conlon: He certainly didn't rehabilitate the bloke at the Arkaba.

The Hon. M.J. ATKINSON: I will speak not as the Minister for Infrastructure about the Arkaba or any rehabilitation in which the former member for Florey was engaged at the Arkaba Hotel. Also, we will amend the Criminal Law Consolidation Act 1935 and the Criminal Law (Sentencing) Act 1988 to allow offences to be treated as aggravated. If an adult uses or exposes a child to the crime in committing the offence the offence will then attract a higher penalty. The government will also amend the Young Offenders Act 1993 to give the Director of Public Prosecutions the authority to refer an offence allegedly committed by a youth offender to the Magistrates Court where the youth would be tried as an adult or committed for trial to the District Court or Supreme Court.

This is action, not words or headlines. Juvenile justice is a vexed topic. It is not an area amenable to quick fixes. It requires a long-term commitment, a clear plan and leadership backed by strong legislation. In relation to the broader recommendations of Monsignor Cappo's report the government, as I have said already, wholly or in part has carried out the 16 urgent recommendations. I inform members that the implementation task force headed by former deputy commissioner of police John White has been formed, has met, and will continue to meet regularly, to monitor the implementation of the recommendations. John White met the South Australian Aboriginal Advisory Council last week to advise on the status of the implementation of the recommendations.

All the Operation Mandrake youth who have been convicted have been assessed and have a case management plan. Kurruru Indigenous Youth Performing Arts has been funded by the Social Inclusion Unit to implement programs for young Aboriginal people, including young males in contact with the juvenile justice system, to try to give them pride in their heritage and culture. The weekend before last, the state government Social Inclusion Unit supported the inaugural South Australian Sports and Cultural Festival at Moonta. The event was attended by more than 2,500 people. The government has a solid record of achievement on matters of law and order.

Mr Pengilly interjecting:

The Hon. M.J. ATKINSON: The member for Finniss scoffs, but this was the party that put Paul Habib Nemer behind bars in gaol and, if the Liberal Party had been in office, he never would have served a day in gaol. This is the opposition party that did not want to DNA test Bevan Spencer von Einem. Under this government crime has fallen by about 30 per cent. We have record numbers of police, convicted offenders are spending longer in gaol—

Mr Pengilly interjecting:

The Hon. M.J. ATKINSON: —and the member for Finniss did not win an absolute majority in any booth in his electorate. These new laws will change how we deal with juvenile offenders and are a part of our planned, responsible and tough approach to law and order.

VISITORS

The SPEAKER: I draw to honourable members' attention the presence in the chamber today of students from Thorndon Park Primary School (who are guests of the member for Morialta), students from Thebarton Senior College (who are guests of the member for West Torrens), and students from Our Lady of the Sacred Heart College (who are guests of the member for Enfield).

DROUGHT

The SPEAKER: I have received the following written notice of a proposed matter of urgency from the Leader of the Opposition pursuant to standing order 52, which I have determined is in order. It states:

> That this house expresses its concern that after six years the Rann Labor government has failed to show leadership by preparing the state and the people of South Australia for the worst drought in its history, and the house urges the Premier to deliver on the promise he took to South Australians at the last election that he would 'get results' and notes that, if the government's leadership failure continues, the drought may develop into a state of emergency, leaving a trail of devastation across the state.

I ask that members in support of the matter rise in their places.

Honourable members having risen:

Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (14:24): Thousands of jobs lost, hundreds of millions of dollars in revenue lost, and wide-ranging social and community costs—

that is the outlook for South Australia during this drought according to two updated, independent assessments of the impact of drought on South Australia. The Rann government was warned of some of these scenarios last year and again this year, but its response has been typically superficial. The Premier has gone missing as he covets the attention of Kevin Rudd. We have been elected in this parliament to deal with the problems of South Australia—South Australian taxpayers' problems—not to work in or for Canberra. The fact is that this drought could turn into a state of emergency as soon as the next budget. This drought may significantly damage the state budget and state growth.

Let me outline the state of this state because the Access Economics September Quarter Business Outlook is out on the streets, and I can tell the house that that report (the most recent quarterly business outlook released) has revised its estimates for South Australia and now it predicts a falling share of national output from about 7 per cent at the beginning of the Rann government's term in office to 6.2 per cent by the end of the current term. It identifies ongoing impact from drought and job losses in manufacturing industries Electrolux, Holden and Mitsubishi. I will read briefly from the subscriber's report, the wider detail of which is due for public release on 22 October, as follows:

> A clear short-term negative is a lack of rain to date. The 2006-07 drought hit the state hard, cutting crops to their lowest in a quarter of a century. It looked as though the 2007-08 winter crop would see a substantial rebound, but a dry winter has taken its toll. That casts a question mark over the degree of recovery in state output from 2007-08. Access has pencilled in a substantial recovery from drought—we have now wound that back on the expectation that, although crops may lift, irrigated output will take another hit.

In the past few weeks, members of the state Liberal Party have visited key regions across the state to talk to South Australians. I have been to the Riverland, the member for MacKillop has been to the Eyre Peninsula, and other members also have been out talking to farmers and country people. I can report growing frustration with the Rann government's fascination with forecast mining booms while established industries wither and die. My colleagues the members for MacKillop and Hammond will tell the house shortly of their experiences, but there is no point in telling a family to work in mining for a couple of years if it is at the expense of the future of their family's farm and of those communities.

Last Friday, I made my fourth visit in six months to the Riverland. I met with citrus growers, Murray irrigators, wine grape growers, the almond board, fresh fruit growers, Agriexchange, the Central Irrigation Trust and the Regional City Group coordinators. I met with small business owners like Mr Rob Howie, whose property at Renmark comprises 2,200 hectares and who is looking at having to bulldoze most (or a good portion) of his orchards as soon as January through lack of water. As you come into Renmark you can see rows of citrus trees that have been turned off from their water supply. They are brown, wilted and stark symbols of some of the costs of this drought. It is serious. These trees and vines belong to families and companies that have delivered regional incomes and economic benefits to South Australia for decades. It is part of the state's food bowl and a hub of exports but, in the grip of drought and the absence of any commitment or action by the state government, the impact on the sector is there for all to see.

The warning bells are ringing loudly, I say to the government, and it must listen. Last year, the Riverland community warned this government of what was coming. The federal government responded by funding the Riverland socioeconomic impact report. That report, handed to the state government in April this year, made a series of recommendations, most of which still gather dust. The only response was a press release in June from the agriculture minister, the member for Mount Gambier, who said that steps would be taken That report is already out of date, and few steps have been taken.

I inform members today that a recently updated version of the economic review done for that very report is as alarming as the Access Economics forecasts that I mentioned a moment ago. That update, conducted by major independent accounting group PKF last month, sends a very loud warning bell to the Rann Labor government. I can release publicly for the first time today that the updated PKF report describes the direct impact on grape and citrus industries and the total impact for the rest of the economy. According to PKF, the estimated fall in jobs in the financial year just ended was 1,800 jobs, of which two-thirds were full-time. It estimates that the impact will significantly worsen this financial year, with an estimated loss of approximately 3,100 jobs.

We hear the Premier talk things up. Here is the reality. To put that into perspective, the employment contribution of the citrus and grape—

The Hon. R.J. McEwen interjecting:

Mr HAMILTON-SMITH: The member for Mount Gambier scoffs at the drought. The member for Mount Gambier thinks that it is a laughing matter. Welcome back; glad to see you scoffing and spitting in the face of country people. Good to see you back. To put that into perspective, the employment contribution of the citrus and grape sectors is expected to be one-quarter of that of 2004-05. That is 75 per cent of the jobs in one industry gone—and you on that side of the chamber don't get it. You don't get it, because you all represent seats in Adelaide. I can just imagine the discussions—

Ms Breuer interjecting:

Mr HAMILTON-SMITH: Apart from the member for Whyalla. The news raises further concerns for the future. The PKF report forecasts that, if the decline in industry continues, we can expect a fall in regional incomes of 16 per cent, as well as falls in activity in related sectors. I quote from the report summary:

> In summary, this represents an annual average of 16 per cent decline in regional incomes and in employment opportunities over the base level of activity in the economy.
>
> While it may in part be offset by other activities, it represents a very significant foregone economic opportunity and generates significant social and community cost. This is considered a significant problem from an individual and community context.

This damning assessment is made on the basis of some recovery in production capacity in 2009 and 2010. This is not a worst case scenario; this is the reality of what is happening in the Riverland today. The final two points of the economic report from PKF tell their own stark tale:

> The consequence of the drought is estimated to result in:
>
> 1. Lost incomes to SA of approximately $780 million.
>
> 2. Lost employment opportunities of approximately 13,800 person years.

The report concludes with a salient note that it may have underestimated the impact of the drought where costs to consumers may create pressures for structural change in the wine and citrus industries. This is the real picture in regional South Australia: jobs are gone, money is gone, and we have social and community upheaval.

Yesterday, at the latest reannouncement of the government's Trade Schools program, the Premier bragged, 'Business is booming in South Australia.' Is it, Premier? Tell that to the farmers and food producers of the Riverland. Tell that to the stock and station agents around the state. Tell that to the service industries in regional South Australia that are closing their doors. By any economic growth standard, South Australia, under this Premier and this government, has failed to keep pace with national trends. The Premier should understand that every time he prances about claiming that 'business is booming', he drives at the heart of those people who are struggling through the drought, many of whom are facing ruin. Like the days of the State Bank, Labor manages to impose disaster, or fail to respond to it, where there was once prosperity. The Premier has had his hand on both collapses. This is a time for action and a time for commitment from the state, to prevent permanent losses in regional and statewide economies.

The government needs to reassess its budget bottom line and some of its budget promises. It needs to spend some money, wisely, not on tram parties or yacht marinas in Port Adelaide, but on drought related areas. It cannot afford to continue its fingers crossed, pray for rain approach—I heard it from the Treasurer a moment ago, 'Pray for rain.' We need more than prayers. The Riverland needs money and it needs water. You have an extraordinary amount of money, $4 billion more than we even dreamed of five years ago. It does not need brochures, opening parties, or a premier working on a federal election campaign. It needs a premier and a government working on the problems of South Australians. There needs to be some action.

In the absence of a plan of its own, and there is none, I urge the government to at least examine the Liberal opposition's plan and policy for our water crisis, released in August, and adopt the 10-point action plan to help food producers in the Riverland that we announced last week, and prepare for a state of emergency if the drought worsens by mid-2008. Legislation which may provide a basis or a framework for action already exists in the form of the Emergency Management Act 2004, the Primary Industries Funding Schemes Act 1998, the Rural Advances Guarantee Act 1963, and the Rural Industry Adjustment Development Act 1985, and there are many others.

The Treasurer presented to parliament a budget in June this year predicated upon 4 per cent growth based on the assumption that the drought would end. Last year's growth was around

1 per cent. If this year's growth is 1 per cent, and not the 4 per cent expected, GSP would be reduced by around $2 billion. This could have, without taking into account commonwealth grants, the impact of horizontal fiscal equalisation, an impact of anything up to $350 million on general government sector revenues. There are variables here, but we need to know what the impact will be. That is a very significant shortfall, and does not include new investment that the government may need to make to ameliorate the effects of the drought, which could require tens of millions of dollars more.

The midyear budget review needs to tell us what the impact of the drought is to have on the budget bottom line. We may need to know sooner. And the government must plan new investments to help the state through this crisis, not just flick pass the problem to Canberra in the hope that someone else will pay. Someone else may not pay. The June 2008 budget must spell out a pathway forward for the state through the valley of the worst drought in its history. This issue needs to focus the Premier and the government's attention. It must be faced today and in the weeks and months that follow.

We do not need parties at Port Adelaide announcing that $22 million is to be spent on yacht marinas for 40 sail boats. We do not need $30 million parties announcing a tramline down North Terrace and King William Street—$52 million. It would do a lot to help with the drought, it would do a lot to help people who are facing ruin. We do not need to hear about Kevin Rudd's political aspirations, from the Premier, or anyone else through Dorothy Dixers, for the next three or four week sitting of parliament. What we do need to hear are some solutions.

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

Mr HAMILTON-SMITH: Hang on—

Members interjecting:

The SPEAKER: Order!

Mr HAMILTON-SMITH: Mr Speaker, there are not—

The SPEAKER: Order! The standing orders provide for 15 minutes per speaker.

Mr HAMILTON-SMITH: Well, we will cut two minutes off the next speaker, Mr Speaker.

The SPEAKER: Standing orders do not provide for that. The member can only speak for 15 minutes. The Premier.

The Hon. M.D. RANN (Ramsay—Premier, Minister for Economic Development, Minister for Social Inclusion, Minister for the Arts, Minister for Sustainability and Climate Change) (14:40): I think that all members of the house are concerned about the devastation caused by this drought. There is one thing that the Leader of the Opposition and I have in common: we cannot make it rain. To pretend otherwise I think is really a cruel hoax on rural voters. You said today that no person on this side of the house represents rural areas. In fact, there are people on this side of the house who represent a massive slice of rural South Australia. The very fact that two conservative members of this parliament sit in this government is a demonstration that the Liberal Party in this state abandoned rural South Australians, because rural South Australians saw that you were more concerned with the city than you were with all of the state. That is why this government is a government for all the people of this state not just for those who voted Labor.

I just heard the Leader of the Opposition talk about the economic figures being a disaster in this state across the board. Last Thursday I think that the Leader of the Opposition probably would have been the only person in the state who was disappointed that we had the lowest unemployment rate ever recorded, the highest number of people in jobs ever recorded, the highest number of people in full-time jobs ever recorded, and, very importantly, because the Leader of the Opposition talked about how we compared nationally, the fact that nearly half the national full-time jobs growth occurred in South Australia.

Over the past year, when I went out to fight to ensure that an independent commission ran the River Murray and supported the federal takeover, all we got was sneers and jeers from members opposite. But we won on that because it was the right thing to do. I was determined that we would not hand over from one group of politicians to another group of politicians, that we would have running the River Murray a group of independent experts making decisions on things such as water allocation on the basis of science and the health of the River Murray. It was this government

that announced a commitment to two desalination plants, not the other side. And you talk about your plan!

I appreciate that today is a day of gravity. Let me read from the Liberal Party's policy at the last election. Of course, the Leader of the Opposition says that we should not have spent money on the tram. The very fact is that the Liberal opposition announced its support for the tram in subsequent election campaigns; so tell the truth, because you will not get away with that. We went to the people of this state with that commitment, and we have honoured that commitment and promise. If we had not, you would be accusing us of having broken promises. This is what you said about water on Thursday 16 March 2006. Under the heading 'SA needs water leadership', it states:

> A Liberal government would create a high-level group with the expertise to consider all the options, and give direction on which option or mix of options would remove Adelaide's reliance on the River Murray.

It goes on. This is a quote from your former leader—the one to whom you were so loyal—who stated:

> By 2009 a Liberal government will sign off on a strategy and timetable to remove both the reliance on the Murray and any future needs for lifestyle-threatening water restrictions.

Your plan was not what we have done, which is to commit to a billion-dollar desalination plant, to commit to improving the supply of the reservoirs in the Hills, to commit to water recycling. Your plan, which you took to the last election, is that you would develop a strategy by 2009, which shows how totally phoney you all are.

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: On the issue of the drought, I have an announcement to make today—and I hope you will support this. I know what the standard response is: you will say it is too little, too late or whatever—it is so formula driven. The struggle to remain viable for many of our farmers is an ongoing battle in the face of the most severe drought in our nation's recorded history. Today I am announcing more help from this government in the form of an additional $10.9 million in drought aid. This includes funds for three new drought coordinators in the regions of the Eyre Peninsula, the River Murray and northern areas of the state. The latest assistance package boosts this state government's drought aid to nearly $71 million in total. It became obvious that, following a visit I made to the Eyre Peninsula last month, what farmers needed was an overall drought response coordinator, an expert who understood their needs, understood the region and who was experienced in all aspects of drought recovery. These drought—

An honourable member interjecting:

The Hon. M.D. RANN: The Leader of the Opposition did not go with the Farmers Federation. Never have I been so called upon to visit and, when I did, I was attacked for going early. That is how phoney that was. These three drought coordinators will be vested with the power to coordinate initiatives on behalf of the community. They will become a single point of contact for farmers to go for help. The $10.9 million will also include: funding for a young farmers' package, comprising a rural leadership program to target up to 20 leaders in drought affected regions; an extension of the Planning for Recovery initiative which provides grants of $4,000 for development of integrated business plans, plus up to $10,000 to make on-farm changes; developing through TAFE SA expanded off-farm employment and training; and accelerating the processing of EC (exceptional circumstances) applications for federal government consideration.

Three weeks ago, I updated the house on the current drought affecting much of South Australia and the devastating impact it is having on our rural communities. I advised members of this house of the work this government had done to help with drought aid, including committing more than $60 million in assistance to our farming communities.

The process of finding suitable people to fill the role of drought coordinators for the three regions identified has begun. They will require outstanding leadership capabilities and be locally and community driven. Cabinet has decided that our 2006 Planning for Recovery program, which provides grants to farmers to develop integrated business plans and to make on-farm changes, will be extended to support a further 570 farm enterprises. It will effectively—and this is important—double the number of places available in the program and extend by 12 months the time in which current participants can spend their funds—a recognition of the increasing demands being placed on both landholders and farm consultants by the drought.

Building on the success of our experience with the Lower Eyre Peninsula bushfire recovery program, for which this state's action has now been highlighted nationally as the benchmark standard for dealing with a regional crisis, this Planning for Recovery program assists farmers to make decisions that result in their improving their profitability, changing their enterprise, changing their management regimes or leaving the industry with dignity. It provides a holistic and planned response to drought recovery and focuses on improving preparedness for the next drought.

The young farmers' package (developed by PIRSA and Country Health SA) is designed to help young farmers provide leadership in their communities and industries, which, in turn, will help address leadership succession problems currently facing many rural communities. The government will fund travel and support costs for up to 20 farmer participants to participate in a special drought edition of the SA rural leadership program. If you come out and attack this, let me tell you this: when we went to Wudinna, Minnipa and the West Coast of this state on the Eyre Peninsula, with the Acting Minister for Agriculture, these are the types of programs for which they asked us. It is very interesting that the Leader of the Opposition did not go on the Farmers Federation trip but, rather than a media circus, we talked to farmers and, more importantly, listened to farmers.

The second component of the package will train some of these new leaders as mentors to provide help and support for other farmers in drought-affected areas. It will link young farmers involved in this project with the more experienced farmers involved in the Farmer Peer Support Program. It will enable them to network on mental health issues and self-help strategies so that they are better able to support their peers and the wider community. I am also told that the Australian government has agreed to loosen the exceptional circumstances eligibility criteria and accelerate the processing of EC.

A faster turnaround puts cash into the pockets of eligible producers and small businesses—faster at a time where cash flow is a significant issue, particularly in relation to water purchased by irrigators, washing-out contracts associated with the forward selling of grain by croppers and securing feed supply for livestock producers. The Minister for Agriculture will write to key financial institutions proposing to convene a banking leaders' forum (which will include grain traders) to discuss how best to support farmers through their current circumstances, especially those who have entered contracts to forward sell their grain.

TAFE SA is planning to provide regionally-based training to farmers so they can more easily access supplementary employment, particularly in the mining and transport industries. Training and accreditation in obtaining forklift, front-end loader, tele-loader, dump truck operator, semi-trailer, B-double and heavy vehicle licences would enable farmers and workers to obtain other part-time, full-time or off-season employment. Furthermore, PIRSA's Executive Director, Minerals and Energy, has been charged with facilitating discussions with key mining companies to develop innovative solutions to address rostering issues to enable people to continue living on their farms while working in the mining sector.

This government will work with the mining companies on this new approach to the mutual benefit of all rural communities as well as the mining sector. This government, together with its relevant departments, is diligently working with farmers, their communities, the Australian government and local members of parliament to ensure the survival and wellbeing of our regional communities. It is not about scoring political points—and that was the message we got on the Eyre Peninsula.

People are sick and tired of games. What they want is people to listen and to respond. This government's commitment to drought-affected communities began in 2002. For five years we have been engaging with farming communities and visiting rural areas to see first-hand the hardship being experienced. By the same token, some of these visits have been inspirational. We met young farmers who told us what they were doing in terms of changing practices with direct drill seeding, low till and no till. They were doing everything right. They told us that they wanted to stay in their communities. What they want from us in government and in parliament is not political games but understanding and support, and there is the difference between us. There is the difference. Rather than playing games and politics with people in a rural crisis, knowing that none of us can make it rain, what they want from us is support, and they will get that support from this side of the house. They will get it from this government—nearly $71 million worth of support, and we are proud to support them.

Mr WILLIAMS (MacKillop) (14:53): We cannot make it rain, but we can still make a difference to communities suffering from drought. That is—

An honourable member interjecting:

Mr WILLIAMS: I am reading that. That is a quote from the Victorian Premier. That is what the Victorian Premier said a couple of weeks ago about the drought in that state. He said that we can make a difference to the communities that are suffering from the drought. Over the last two years the Victorian government has been working to make a difference to drought-affected families and communities across that state. For well over 12 months the opposition has been complaining that the response to the drought by this government has been far from adequate, and that our cousins across the border in Victoria and New South Wales have received a reasonable response from their state governments, whereas the state government of South Australia has relied heavily on the response of the federal government and, at times, has called on the federal government to step in even more heavily because of its lack of action.

We need to ask ourselves the fundamental question: do we, or do we not, want to continue to have a farming community and viable regional communities across South Australia? When we ask ourselves that question we must also ask: what is the importance of those communities to South Australia? The Premier himself in a ministerial statement several weeks ago in the house—and I might say that his speech today is a rehash of that ministerial statement—said that the agriculture, food and fishery industry is one of South Australia's most valuable. He said that annually it produces about $3 billion in production.

That is correct, but when one goes to the South Australian Food Scorecard, one sees that the value adding that is put on top of that $3 billion a year in production takes the total food sector worth to over $10 billion annually for the state of South Australia. It is an important industry and an important sector. That is why the opposition believes that the state government's response should be considerably more than it has been. That is why we ask whether this government has the will to do something. At present, it has not demonstrated that it has the will. It has not demonstrated that it is doing effective things in regional and rural South Australia to support those communities.

I question whether the government has the ability because of its mismanagement over the last five years. We know the budget is under pressure. The Auditor-General in his report that was tabled a few minutes ago points out that SA Water has to borrow to pay money to the Treasurer when it should be building infrastructure to save us from the drought and the present situation. I question whether the government has the ability to do that, having taken on an extra 10,000 unbudgeted public servants which equates to about $700 million a year. Does this government have the ability to do what a state government should do? Possibly it does not. It is possible that therein lies the answer to the question before us. It does not have the ability and, therefore, it cannot express its will. Unfortunately, the future of South Australia is at stake.

I did spend a week on Eyre Peninsula at the request of the Farmers Federation which arranged a significant series of meetings from one end of the peninsula to the other in various communities, some of which are not so badly off and some of which will be devastated. I sat down day after day, in the morning, at lunch time and in the evening and heard similar stories from one end of the peninsula to the other. I wished at the time that the Premier or a minister representing the Minister for Agriculture, Food and Fisheries was there representing the government, because they might have heard stories different from what the Premier heard on his flying visit.

He decided to make that visit when the Farmers Federation took umbrage at his refusal to accompany them to Eyre Peninsula. I met the couple with whom the Premier was photographed. The photograph appeared on the front page or near the front page of *The Advertiser*. They had one hour's notice that the Premier was going to call on them and that they had to prepare a cup of tea and some nibbles for 12 people. They said that the Premier was amiable. As the Premier knows, that aged couple has sunk their life savings back into their farm in the past two to three years. They have put back into their farm in excess of $500,000 in the last three years to maintain the farm as a productive enterprise for their son so that it can continue to produce for this state.

Down the road at Cleve we talked to people who no longer have a GP. The Minister for Health talks about the gulf between his philosophies and our philosophies on health. I wish he was talking to the people on Eyre Peninsula—like the people at Cleve—who no longer have a GP. They do not have a GP and they have not had obstetric services for some time. If you are a young woman in the Cleve district and you are having a baby, you have to go to Port Lincoln or Whyalla.

The Hon. J.D. Hill interjecting:

Mr WILLIAMS: Yes, blame Tony Abbott. Blame the federal government. That is all you do. So, the situation is, not only do they have to travel long distances to have their baby, but also there are no post-natal services in their local communities, so they cannot return to their local communities but have to spend the few days after they have had their baby in hospital. Community facilities—those things that I refer to as I go about my electorate and other parts of regional South Australia as the social infrastructure—are breaking down from one end of the state to the other once you get outside of metropolitan Adelaide. Why? Because there is a lack of confidence and a lack of support by the government.

Communities right across Eyre Peninsula are crying out. Not only are they in trouble now, but what are they going to do next year? I do not know how many times I heard a farmer say to me, 'I don't know how we are going to borrow another $300,000 to plant next year's crop', because that is what it costs the average farmer over there to plant a crop by the time they buy thousands of litres of fuel, at great expense to transport it across to Eyre Peninsula because they do not have a decent port at Thevenard. I am sure when the Premier went to northern Eyre Peninsula someone mentioned the port of Thevenard. I am sure someone mentioned that, but it is not in his statement. He chose not to talk about that. I am told that, not only would that impact significantly on the cost of putting in next year's crop, but it would be worth about $15 a tonne for every tonne of grain on the northern Eyre Peninsula. That could equate to something like $40,000 per farm, another farmer told me.

The Hon. P.F. Conlon: Would you sell the port of Thevenard, wash your hands of it?

Mr WILLIAMS: No, that would not stop. We also sold the port at Port Adelaide and it was dredged out after it was sold, and you know that, minister. That is a pathetic argument.

The Premier mentioned Wirrulla. I am sure he heard about the two brothers at Wirrulla whom I spoke to. They said, 'One of us would love to go off and get a job in the mines to supplement our farm income, but we cannot because the water supply is such that we are both flat out repairing pipelines to keep our livestock alive.' Did you hear about that one, Premier? We heard the Premier the other day, and more recently, saying everyone wanted a coordinator. He said, 'That is what they all wanted when I talked to them.' I never had one farmer suggest to me that they want a coordinator. I suggest the Premier solicited that response.

In his statement to the house a few minutes ago, the Premier put down seven points and, if time permits me, I will go through them. The first was to extend the planning for recovery, and he mentioned that again today—the program that provides integrated business plans. But he also let slip that there is no extra money for that, the $8 million. He mentioned the number of 570 farms today. The money was already there: it is not new money. The Premier's next point was initiating a young farmers' package. Well, hello, Premier—the young farmers' package has been around for a long time.

There is no initiating there. The Premier also said he would lobby the federal government and his lobbying was on a matter that the Prime Minister had already announced three days previously. He would organise for the Acting Minister for Agriculture and the PIRSA chief to meet with financial institutions. When I met with them three to four weeks ago, the first thing they said to me was, 'It is great that we are meeting with the opposition. We are wondering where the government is, because no-one has contacted us.' So, the whole range of the Premier's initiatives amount to nothing that will help the people across rural and regional South Australia. He has failed.

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Industry and Trade, Minister for Federal/State Relations) (15:05): I am not sure whether that contribution was in keeping with the motion, but I would like to address the earlier contribution by the Leader of the Opposition. I want to say from the outset that he admitted that he was quoting from an Access Economics report. One thing that I think Access Economics knows today, which is something I have known for some time, is that you cannot trust the Leader of the Opposition. This is an embargoed report. The Leader of the Opposition has been provided with an embargoed report. The Access Economics report is embargoed until Monday 22 October.

Mr Hamilton-Smith interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: My guess is that members of the media would have a copy, also under embargo. I have had a read of the section—and I read it the other night and I have just had another look at it—and I will not be held exactly to these numbers, but I think that there are about

six or seven lines of negative comments out of two pages and the balance is quite positive about our economy. So, it is very easy to put a shockwave of fear through the community. The Leader of the Opposition, or as he likes to call himself 'the alternative premier' as he did at the Police Association today, is very good at the negative, the critical, and highlighting the problem but almost non-existent in the ability to offer alternatives.

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: Let me have a look at the context of this Access Economics report. It starts as follows:

South Australia's economy has seen a relatively steady expansion in recent years...That degree of recovery in the state's fortunes was more evident earlier this decade, as population growth began its climb, the business investment spend by corporates jumped sharply, retail recovered and the unemployment rate fell.

But there is still a clear and lingering strength in pockets of our economy. The report states:

...housing starts are still strong...the growth in retail is up there with the excellent Australian average, housing prices are making solid gains, and commercial building approvals are lifting modestly.

It goes on to state, and this is the bit that the leader focused on, that there is bad news too. Anyone who has read an Access Economics report would know that it is normally all bad and every now and again you get some good words about South Australia. This is what it says about the bad news, and let us put it into its full context:

Yet there is bad news too. A clear short-term negative is a lack of rain of late. The 2006-07 drought hit the state hard, cutting crops to their lowest in a quarter of a century. It looked as though—

This is Access Economics saying this, as has our Prime Minister, I might add—

the 2007-08 winter crop would see a substantial rebound, but a dry winter has taken its toll. That casts a question mark over the degree of recovery in state output in 2007-08. Access had pencilled in a substantial recovery from drought—we have now wound that back on the expectation that, although crops may lift, irrigated output would take yet another hit.

That is a relatively sensible and sound observation of the impact of a drought. We cannot make it rain. We cannot supplement the lack of rain—

Mr Hamilton-Smith interjecting:

The Hon. K.O. FOLEY: In all of these situations we must have calm, effective and controlled management of the economy, not the hysterics of members opposite. The leader quoted subjectively about job losses from Electrolux, Holden and Mitsubishi, but what he did not say (unless I misheard him, and I may have) was the preceding sentence, as follows:

The strength in resources is pulling people, materials and capital out of SA while raising costs from manufacturers by pushing up exchange and interest rates. So far the impact of that on South Australia has been mild rather than wild...

Then it goes on to talk about job losses from Elizabeth. I do not think the leader mentioned that bit in his preamble.

The Hon. P.F. Conlon: No, he didn't say any of that bit.

The Hon. K.O. FOLEY: He did not say any of that bit. It is mild rather than wild. It continues:

But it is equally true that South Australian manufacturers have done well through this cycle so far. Profits are notably higher than four years ago and the Air Warfare Destroyer Program promises spinoffs. So too does the lift in mining investment of late. That is being seen in higher output (such as gold and copper from Prominent Hill) and the potential promise of expansion of Olympic Dam.

This is important, because this is the context of the whole report. It goes on to say:

Apart from the modest, short-term downward revision of 2007-08, amid another disappointing year down on the farm, our longer term view remains much the same.

That is, to paraphrase the last bit of the report, South Australia's economy continues to perform well. That is a sound, balanced and objective assessment of a strong South Australian economy that is suffering the effects of the hardest and worst drought that this nation has ever seen. As the Prime Minister himself said in February 2007, 'It's a very bad drought; it's the worst in our living memory.' The Prime Minister's website says today:

> We are praying for rain to break the worst drought in 100 years, but that is the extraordinary thing about the weather in our country: it can change very dramatically.

I do not know what the member for MacKillop expects the government to do because, believe it or not, there have been conservative governments in the state that have presided over periods of drought and poor weather. I have been around long enough to remember the Farmers Federation in this state leading a national push to have drought not declared a national disaster but, indeed, to be a recurring event in the farming cycle of our nation. That was a debate we had in the 1980s, and the National Farmers Federation, and its local branch here in South Australia, wanted to educate farmers that droughts are, tragically, a recurring and cyclical theme in our nation's economy and environment. We are doing as much as a responsible government can do. It is easy for—

Ms Chapman interjecting:

The Hon. K.O. FOLEY: Well, what? We have put over $70 million already into the drought-affected areas.

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: They talk about the marina. That $20 million unlocked the $1.5 billion urban development, and it would have happened under John Olsen as part of his vision. The opposition has become the most carping, whingeing and negative opposition that this state has ever seen.

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: I really hope that when members of the media review the Access Economics report, they will see that the Leader of the Opposition's presentations were akin to Anne Moran's contribution in recent days about the events of the Adelaide City Council as it relates to Victoria Park—a mass distortion of the truth and nothing that bears out the reality of the report. I conclude on a few very important and salient points. The September Business SA survey of SA business expectations indicates that business confidence for both the Australian and particularly the South Australian economy remains at a record high. Business confidence in South Australia has been trending upwards since December 2006. The Bank SA state monetary report released on 29 August showed confidence levels remain at its second highest point since February 2005. The recent National Australia Bank business confidence index states:

> SA again holds the mantle of businesses that are the most confident even above Western Australia.

So, let's be proud of our economy and let's be proud of this state's achievements, but let's be sympathetic to those in our rural community who are doing it so hard and so tough. Their interests will not be served by an opposition that wants to state the obvious, an opposition that wants to trade on the misery, the plight and the crises facing many in our rural community. An opposition should be prepared and able to stand in this place to proudly support the strength of this economy and acknowledge that this economy has never performed better with unemployment lower, and to engage constructively in assisting those most in need and not resort to base-grade politics and making politics out of other people's misery.

Mr PEDERICK (Hammond) (15:14): The thing that seems to be lacking in this time of exceptional drought is real leadership. Farmers accept the vagaries of the industry (fluctuating prices, demand, markets, competition and changeable weather) but this is an extraordinary time which, despite assertions of this being the worst ever drought, many saw it coming and have warned of it for years. The Murray Mouth closed over completely for the first time in 1981, yet water allocations across the Murray-Darling Basin have increased since then. Plantings and production have increased substantially, benefiting the state's economy, but what real planning has the government done to sustain this growth into the future?

They have a bold vision to increase the state's population by up to a third. People are like crops, they need water to survive. In promoting population growth without a clear plan to secure water from somewhere other than the Murray this government is adding to the ever growing overallocation problem. Talking to my people around the Lower Murray and Lakes one finds that constant themes emerge, and perceptions about how little their survival seems to matter to the city folk, perceptions on the level of real government assistance, and contempt held for many people whose real understanding of their situation and needs is shallow at best. Families whose

knowledge of the land and best farming methods are irreplaceable are breaking up. Some have sold out despite falling values. They are the lucky ones. Others cannot find a buyer. Sons and daughters are leaving the family unit, leaving the industry and leaving the area, many never to return.

Farmers accept that reality but their real lament is that nobody else seems to care, government in particular. Many of these people have wrestled with the elements and market forces and they are battle hardened survivors, but this time it is different. One woman told me that she had noticed a worrying change at meetings recently. The menfolk just sit silent, which is more than the Attorney-General does, with empty faces. It is the women who are fighting on, but they are not fighting for their livelihoods, they are fighting to keep their families safe and together. Yet they still see water being pumped to Adelaide. One family I can refer to has about one week of stock water left. They are rated among the top 10 per cent of dairy farmers in Australia for quality milk.

They have 30 years of genetics in their herd, with some animals worth up to $1,200 each. They have used the lowest quality river water to produce the country's best milk. Now they are lucky to get $300 an animal at the meatworks, but who really cares? This family has a daughter in the hills. She is constantly amazed by the careless attitude of neighbours and workmates who insist that they will not let their lawns and gardens die. So their frustration and anger is heightened. Who does care? They need a mains supply in their area and they need it now. The government chose not to put a main in for fear of it becoming a stranded asset, just like they would not move on desal because they were frightened it might rain. Well, how wrong they were. What sort of stranded assets have we got now?

The Hon. P.F. Conlon interjecting:

Mr PEDERICK: You haven't got any assets. Some of the most efficient dairies in the country will be gone. And where is action man Mike Rann? Nowhere to be seen. Just when they need a main man. Another irrigator from the Lower Murray has broken up their herd. One hundred and fifty have gone to Victoria, 40 have been parked on another property, and 100 have gone to the meatworks. Lot-feeders cannot take calves because they cannot afford the grain. It is not feasible to convert their dairy from irrigated to dry land because the cost of hay and grain and power and operating costs just rules it unfeasible. This family has not found Primary Industries particularly helpful in parking stock and giving advice. Their perception is that minister McEwen is only interested in the South-East, as the only place for dairying and for operating a dairy industry.

They believe very little traded water is coming below Lock 1 and they say the industry will be gone by Christmas, and again there is the overriding perception that the government does not care. Where are our leaders they ask? And all the while managed investment schemes suck water by the damful, and what for? Thousands of hectares of new plantings. Consider this: it takes 13 megalitres per hectare of water to establish new almond trees, while it takes 7 megalitres per hectare of water to produce 20 tonnes of dry feed for dairy cows. Where is the equity, where is the commonsense, where is the prioritisation of a limited resource? It is out there in bucket loads when it comes to supplying the city. But most of all where is the leadership? People want real assistance. They do not want more workshops.

The SPEAKER: The Minister for Agriculture, Food and Fisheries.

The Hon. P.F. Conlon: Welcome back, Rory.

The Hon. R.J. McEWEN (Mount Gambier—Minister for Agriculture, Food and Fisheries, Minister for Forests) (15:19): Thank you. Mr Speaker, governments can do very little about drought. They are not my words; they are the words of the shadow minister. Why would the shadow minister, on behalf of the so-called alternative government in this state, believe that governments can do very little when it comes to drought, and then have the audacity to contribute to this stunt in this house today? What is far sadder than that is that the farming families and businesses in rural South Australia who rely on farming families do not expect what they received in this place today. They do not want this place to play politics with drought, and they know it. What they want—

Mr Williams: They want leadership.

The Hon. R.J. McEWEN: —is leadership from all South Australians and everybody in this place. Do you know, Mr Speaker, that I have not had one practical suggestion from those opposite, as we have now put together seven packages in our response to complement federal drought

initiatives across southern Australia. But, again, I am quite happy to invite those opposite today to make practical suggestions, and every single one of them will be considered on merit. On behalf of this government, I have gone to all the community leaders across the state—the business leaders, the social leaders, NRM leaders—and said to them, 'Talk with us about what we can do to mitigate against the enormous damage drought will cause across southern Australia.'

Ms Chapman interjecting:

The SPEAKER: Order!

The Hon. R.J. McEWEN: It is important to put in perspective the packages that are available presently. Across a two-year period, an average farming family eligible for Centrelink and interest rate support subsidies and the complementary state government packages would receive about $130,000. That is not insignificant. In some cases it will not be enough, even for viable farming families, to maintain them on the land. We must continue to work with them and the private sector in terms of managing debt and equity, managing arrangements to move into more viable times for those farming families who will remain on the land.

As a consequence of this drought, droughts before and droughts in the future some farming families will leave the land. We must also complement the federal government's response in terms of allowing those families, with dignity, to leave the land. I compliment the federal government on its next response. Again, we will continue to work at a state level to complement, as we have with all state ministers, as we continue with minister McGauran (who has done an extremely good job and been prepared to continue to review the rules) to give every possible person, farming family and farming business and every business that relies on farming businesses for more than 70 per cent of their own business the support that we can.

When it is considered by the opposition that governments can do very little, I would say that that is a significant contribution, but you will never say that you are doing as much as you possibly can for everybody. Certainly, there are casualties of drought. As a consequence of drought there will be a cash drought; as a consequence of a cash drought businesses will struggle and businesses will fail. That is the reality of operating in this environment as a farming enterprise. We cannot avoid that. Yes, it is a tragedy. Farming families in South Australia are suffering two droughts: a drought in this state because of lack of rain and a drought because of lack of inflows. We have never had those joint whammies to the point that we have them today. I ask the opposition: can we all as South Australians please work together in terms of putting practical suggestions on the table? But please do not do what the shadow minister did and scoff at suggestions that rural communities make. Do not scoff at the suggestion about the drought coordinator—

Members interjecting:

The SPEAKER: Order! The time for the debate having expired, the matter stands withdrawn.

GRIEVANCE DEBATE

RODEOS

The Hon. G.M. GUNN (Stuart) (15:25): I am happy to—

The Hon. M.J. Atkinson interjecting:

The Hon. G.M. GUNN: I could have been the member for Grey a number of years ago, if I had wanted. I chose to stay here because I knew that the Attorney-General would be pleased. I want to talk about a more important issue; that is, the fact that the real crunch of the drought conditions affecting many parts of South Australia has not come yet. The crunch will come in January, February and March next year. That is when the real effects of the drought on these small rural communities will be at their worst. This is at a time when governments should not be taking away services but should be ensuring that the services which are already there are maintained and enhanced. It is not a time to be taking away services from hospitals; it is not a time to be putting pressure on schools about school buses or other services; it is a time to go to those communities and give them confidence. Difficulties that they will have in maintaining their sporting facilities because of the lack of people will put added pressure on those small communities. There has been a great deal of talk about the difficulties on Eyre Peninsula, but that also applies in my constituency in the Upper North.

One of the things which has annoyed me more than anything over the past few months is that this government, for reasons best known to itself, wants to put added pressure on those small communities by making a vicious attack on the rodeos. These functions are run by volunteers to provide money for the Flying Doctor to maintain its services, and the government allows Sir Humphrey Appleby in the Department for Environment and those other anti-rural people to bring in stupid restrictions. I ask the Deputy Premier to explain to this house why the Calgary stampede (which attracts 1.2 million people) does not need a permit from the provincial government, the federal government or the local government and does not have to prepare any reports? Just tell me why in little South Australia we want to penalise these people?

The Hon. K.O. Foley: I have no idea.

The Hon. G.M. GUNN: It's a pretty good question.

The Hon. K.O. Foley: I like rodeos.

The Hon. G.M. GUNN: Why don't you do something about the stupidity in the Department for Environment and Heritage? Edmonton hosts another huge rodeo—no permits. They said to me that they would not put up with this nonsense. This is the biggest rodeo in the world: it goes for 10 days. They even have chuck racing. However, here in little South Australia, you have the department for environment wanting to put its nasty tentacles into traditional Australia. They want to interfere with a way of life. You have these left-wing agitators and those crazy advisers to the minister. The poor, helpless minister would not know a calf from a bandicoot, nevertheless, here we go. I am waiting for the Premier to tell us why we have to implement controls but the biggest rodeo in the world, the Calgary Stampede, which is attended by the Prime Minister of Canada, does not have any restrictions.

A few weeks ago, I had the pleasure of meeting with the board, and when I showed them what we are doing in South Australia, they just laughed and said, 'How foolish can you be?' A few days ago, the Premier said that we want to get rid of red tape. Here is a prime example of how he can get rid of some red tape. We have already been told that, this year, when people are carting their crops to the silos, the over zealous inspectors in the department for transport are waiting for them. I gave warning to this department about what will happen. The minister gave some undertakings, but it appears to me that they will not be put into effect. I have been told that they have not gazetted certain roads around South Australia on which to allow B-doubles and road trains to operate. We know what happened a few years ago when that fool in the department for transport in Ceduna nearly stopped the export of grain from Thevenard. The only reason he still has a job is that he is mates with some of the hierarchy. We know that. We know this character. I want to know why they have not lifted that red tape, but I also—

The DEPUTY SPEAKER: The honourable member's time has expired.

The Hon. G.M. GUNN: That is unfortunate; I just got started.

NATIONAL MEN'S HEALTH FORUM

Mr PICCOLO (Light) (15:30): Today I wish to speak about the National Men's Health Conference I attended a week or so ago put on by the National Men's Health Forum. Today we have been talking about the rural crisis, which is having a major impact on men's health in rural areas. The conference was held between 3 and 5 October. Presentations were given relating to research and practice, as well as a diverse range of topics including fathers and fatherhood and the role of men as fathers. The conference dealt with issues regarding mental health and men. A presentation was given by *beyondblue* highlighting the work it is doing in Australia, particularly with respect to the problems men are experiencing with depression, as well as issues around domestic violence in terms of taking out the politics and, perhaps, putting the psychology back into that issue so that it is appropriately addressed. The conference talked about violence against men, men's health issues in the workplace, parenting and men's health in terms of post-family separation.

There were discussions about health initiatives at the grassroots level in various communities, as well as highlighting a number of initiatives, such as local men's health groups similar to the one established in my own town of Gawler, as well as support groups for men and dealing with issues related to the health of young men. One of the presentations dealt with men as carers and the increasing number of men older than 60 who act as carers and the impact of that on their lives and how they cope as a primary carer—a role they are not often trained for. That is a

serious issue, because not only are they trying to care for their partner but they are also trying to look after themselves.

There was some discussion about their physical health issues which we often hear about. A lot of discussion related to health issues in the context of male suicide. Of the six people who suicide every day in this country five are men. It is an alarming statistic. You do not read about this issue enough. If five whales were to beach themselves on our shores every day there would be a lot of media coverage. It would be frontpage news. It would be news on pages 1, 2 and 3 for days, weeks and months, yet five men suicide daily in this nation and there is barely a discussion about it. That is something about which as a nation we should be ashamed.

The conference also included the launch of the Freemasons Foundation Centre for Men's Health. That is a partnership between Adelaide University and the Freemasons Foundation. The foundation hopes that by sharing interests, strengths and resources the partnership between the foundation and the university will deliver research that will benefit men's health. The Freemasons Foundation has committed $1.5 million over five years to establish a centre, and the foundation should be congratulated for that initiative. The centre will build a critical mass of researchers and practitioners and generate new research on men's health issues. It hopes to develop strategies to promote men's health and wellbeing; develop treatments for diseases affecting men and improve men's uptake of health services. A major issue discussed at the conference was the fact that men do not access services and often allow themselves to become ill.

I disagreed with some of the presentations in that if men do not go to doctors you blame the men, and I think a lot of our policies are based on that. We need to understand why men do not go to doctors and actually make sure they do.

Ms Bedford interjecting:

Mr PICCOLO: That as well. Access to doctors is a major issue now as they operate, etc. Other aims of the centre are to raise the public profile of men's issues and influence government policy. The foundation took on board some of the results of the Florey Adelaide Male Ageing Study, which I think was covered briefly in *The Advertiser*. I would like to mention very quickly a local men's shed initiative in Gawler called the Willo's Shed. I want to acknowledge the work of Aaron Phillips, a fatherhood worker; Nigel Davies, a mental health worker in Gawler; Debbie Martin, Manager, Community Services; Erik Moen, CEO, Gawler Health Services; Mark Abrook, a member of the Gawler Men's Health Group; and Carmel Rosier, CEO of the local job network provider, Employment Directions.

We have now established a men's shed in Gawler as a way of bringing men together, particularly men who are dealing with some crisis in their life and to help them deal with it in an appropriate and positive way. It is also a place where services can be delivered to men because often they are reluctant to go to institutions that are provided by government, etc. This facility, which would be run by men, will assist men. It has also been facilitated by a grant of $50,000 from the Gawler Health Service through the health department.

Time expired.

DROUGHT

Mr VENNING (Schubert) (15:35): I support the motion that was moved by the Leader of the Opposition this afternoon, even though it has been dealt with. The drought is the worst we have ever seen. I can go back a long time in my own life and also my family's life because my forebears left very accurate diaries. This is indeed a very serious situation. It is the worst in living memory—certainly the worst since records have been taken. It is taking a massive toll. It is much worse than most people, especially government members, realise. It is generally masked by the massive mineral boom in South Australia—and some would say, 'Just as well.' If it were not for the mineral boom, every South Australian would be suffering albeit to different degrees.

This government has shown total indifference over almost six years to this huge problem. It is totally derelict in its duties and responsibilities. It has played politics while the state has evaporated and cracked. We have known since 2001—seven years ago—that we were heading for a potentially serious problem. The then minister for water (Mr Mark Brindal) highlighted it in his paper Waterproofing Adelaide, to which I have made reference in my speeches in this house over many years. What is the sense of making speeches when no-one takes any notice? I said in 2001 that Adelaide was far too reliant on the River Murray and that we had not done enough to provide alternatives, either by building new reservoirs or upgrading existing reservoirs or, as former

minister Brindal said, recharging Adelaide's natural water aquifers and natural vessels with storm and recycled waters.

Over the past 10 years I have raised issues ad nauseam about how we could be more efficient water users. For four years as a member of the Public Works Committee, on almost every occasion in relation to every reference, I raised the issue about keeping grey water separate in all new public buildings to assist with recycling and reuse. That is on the public record and members opposite, including the member for Norwood and minister Caica, are aware of that. I have harped on about fitting all toilets in public buildings with dual flush cisterns and bowls. It is a disgrace that so many public buildings are still using old-fashioned large bowls on single flush. A high proportion of females working in these areas go to the toilet regularly, and all the water goes down the gurgler every time they go there. I notice the honourable member in the gallery smiles, but it is a serious matter because women are different from men. Men do not have to flush every time they go but women do. It is purely a matter of anatomy.

What has this got to do with the motion and drought-affected rural buildings? If Adelaide was more efficient in its water use, it would mean more water for our irrigators, dairy farmers and orchardists, particularly those who grow our valuable orange trees. I made a speech in this house a couple of weeks ago to highlight that 300 to 400 prize dairy cows go to slaughter every week. The dairy farmers cannot afford the cost of the feed. It costs about 50¢ per litre to maintain a cow and the return is 38¢. One does not have to be Einstein to work out what happens. It is not worth buying the feed and doing the work to lose the money.

An honourable member interjecting:

Mr VENNING: The minister asks, 'What can the government do?' Well, the government could help with the provision of feed for those cows. Both New South Wales and Victoria subsidise the cost of freight to get the fodder to their farmers; and they are doing it for the second consecutive year. We have been cutting a lot of hay on our farms in the past couple of weeks and all the trucks are going to New South Wales. That is a disgrace. Our orange trees are state assets. They should be protected and saved at all cost. Some of these trees are 10 to 15 years old. The best-flavoured orange juice comes from the oldest trees and they are dying.

A former colleague of mine (Kent Andrew) rings me regularly and it is sad to hear that another row of trees was switched off today; and in two or three weeks those trees will be dead. Those trees go back to his father's time. It is a disgrace. We cannot put them back in next year. They will not be there. What do we do? How do these people make a living for the next five or six years? It is a disgrace. It is very concerning, but what will it be like in March, April and May next year? That is the big worry. And what is the government doing? What is its emergency plan? It is not carting bottles of water, I can assure you. It is a disgrace. The government should have a lot more plans in place for the future of South Australia .

MATERNITY HOSPITALS

Ms BEDFORD (Florey) (15:40): In an article in *The Advertiser* of 12 October, Matt Williams writes about a waiting list at the Burnside maternity hospital where expectant mothers are being advised to seek alternative hospitals if they are going to deliver in March of next year. Burnside is the place of birth of both my grandchildren so I know a little of the hospital and admire the work it did in relation to my family. Burnside hospital chief executive Nick Warden is quoted as saying, 'The hospital has become very popular.'

When I gave birth, I used the Queen Victoria maternity hospital, albeit 27 years ago, because the obstetrician to whom I was referred by my GP used that hospital. Dr Ross Sweet was, I was assured, an excellent obstetrician, and I found him to be so once we developed the sort of relationship so necessary for first-time mothers. I had no hesitation seeking him out again for my second baby and found him 18 years later still delivering babies, only then at the Women's and Children's Hospital, from where I believe he has only recently wound back his professional activities.

I raise these experiences because they highlight the personal connections and referrals involved and the choices to be made when a baby is on the way. Now we understand that there will be one single number which GPs will be able to ring to book mothers in or advise them where there are places for them to give birth. For me at that time it was knowing I had the best possible care and I believe for women these days the decision is still based on the same fact. It is also about

preparation for the birth and understanding what will happen and feeling empowered for the birth of your baby.

In speaking on this subject today, I want to look at two aspects of birthing: the facilities and professional health staff available to mothers and the rising statistics around caesarean sections and interventions in what should be a natural process. We have recently seen a change in service delivery within this state around birthing, particularly at the Modbury public hospital, which will soon advise its mothers to be to use the Lyell McEwin Health Service or the Women's and Children's Hospital. In particular, the Lyell McEwin Health Service is capable of handling most of the approximately 700 extra births that it will share with the Women's and Children's Hospital. There has been significant expenditure on infrastructure and works at the Lyell McEwin Health Service, which now has, I think, arguably the state's best birthing unit.

On a couple of recent visits to the hospital I have seen the birthing suites and the neonatal nursery. I have spoken to the staff there and spoken to people using the facilities. Expectant parents have their own 24-hour entrance to the hospital, with easy access and parking. The staff, many of whom will be those who have worked at the Modbury public hospital and will indeed continue to work at the Modbury public hospital, which will still provide antenatal and post-natal care, are excellent, and I do not think anyone doubts that. It is a question of the number of staff we have in the state to be shared between the facilities offering birthing options. It is important that people having babies know where to go.

Mothers who give birth at the Lyell McEwin Health Service also have access to the wonderful Mother-Carer Program, which I am sure everyone here is familiar with, which offers three hours of help every day for several weeks. If mothers are well and happy enough to discharge themselves soon after birthing, they can avail themselves of this world-class service. No-one is forced to leave hospital early after birthing, and I certainly have never heard a story of such a case and, if there is such a case, it needs to be brought out and the circumstances around it examined. Every doctor I have spoken to at every maternity hospital in the state assures me that no-one is forced to leave.

What I am proposing for Modbury public hospital at this time is a midwifery-led, low-risk birthing unit. I know the midwives have put in a submission to the birthing network in this state. I support that, as I hope all members will, for a couple of very important reasons. Such models are showing great promise elsewhere and would be a welcome addition not only to the services in the north-east but also to the alternatives available to expectant mothers here in this state. Birthing trends have, indeed, changed. Women are having fewer babies and leaving it to later to have them. The latter is having a great impact, especially with respect to the actual birthing process. Birth is a natural occurrence that has some danger, unfortunately, and I am told the 4 per cent peri-natal mortality rate is factored into worldwide statistics.

Here in Australia we rightly hope every mother and every child will give birth without mishap but, unfortunately, risk is still involved and has perhaps encouraged a greater caesarean rate, as have increases in the cost of medical indemnity insurance. Should the caesarean rate continue to increase, the knowledge around natural birthing will be lost and with it the ability for young mums with no indication of complication to experience birth without intervention. This highlights the importance of the midwifery-led unit, allowing the women's business to proceed at nature's natural pace unless otherwise indicated. If you have any complications at any hospital in the state, you are always transferred to a larger public facility.

Time expired.

WATER SECURITY

Mrs PENFOLD (Flinders) (15:45): I rise to support our leader's drought motion this afternoon. Our state is lacking rain; however, since the beginning of time, water has been fully recycled and has never run out. It is the most plentiful commodity on earth, and in South Australia at $1.07 per kilolitre (that is, per tonne) it is the cheapest product by far that can be delivered to households for all uses. Get any other product delivered by the tonne to your house and compare the cost. People have the right to be supplied with ample clean water. A decent shower and beautiful garden are basic pleasures of life and they should not be denied by the arbitrary and stupid decisions of this government if we consider ourselves to be living in a first world country. Water is the one commodity left that is provided by a government monopoly, and it is the one thing that we have a limited supply of and for which we are paying millions of dollars out of our state taxes to try to reduce its consumption.

Now, to my dismay, we are going to bring in water police and start fining people. People are going to be encouraged to dob in their neighbours who will face hefty fines for doing something which should be legal and encouraged—that is, growing a garden. It is good for physical and mental health and it is good for the environment. If we are going to grow more trees and plants to use up the CO_2 in the atmosphere and reduce global warming, we must have more water, not less, and be encouraging everyone to plant more greenery.

Water restrictions are totally unacceptable and unnecessary. Open up SA Water to competition and, with wind power, solar power, wave power and hot rocks all available in South Australia, water can be desalinated with little greenhouse effect, no additional cost to taxpayers and no need for a dob-in hotline or water police and fines. Private enterprise would provide all the water needed at little (if any) cost above what we are paying at present and with no threats or intimidation. The cost to the state from not maximising the water supply of our users is enormous, particularly if we are to value-add our commodities and diversify our rural economies to help drought proof them in the future.

With the advantage of being easily produced in unlimited quantities, cheaply and readily distributed through existing pipelines, with a small ecological footprint and enormous benefits to the community, why is water targeted for permanent restrictions and requirements that increase its costs and reduce its benefits except that it is the only commodity still provided by a government department? This then must be changed. The tendering out of the maintenance of Adelaide's water infrastructure to a private company proves the point. This part of SA Water's business that was originally making huge losses is now making profits that are going back into general revenue through SA Water.

The government's requiring water tanks for houses is cost-shifting from the least expensive water supply to the most expensive water supply and requiring the homeowners to pay for it. It is like requiring vehicle users to fill their fuel tanks only at service stations charging two to three times the cheapest prices. The cost of housing for individual families is already being significantly increased by the need to provide water tanks. In the country, where freight costs are the highest and the banks will lend the least, the government through SA Water is also charging massive augmentation fees on top of the usual connection fees and ongoing charges. Private investment into water solutions for South Australia is being ignored by this government and government owned SA Water, and it is costing millions of dollars to all our communities as well as the huge loss of amenity.

Marion Bay on Yorke Peninsula has provided its own desalination plant with the council's assistance despite the government and SA Water's lack of support. However, Cynergy's project at Ceduna, Acquasol's project at Port Augusta, the Solar Oasis project at Whyalla languished at a time when there were millions of dollars in federal funding potentially available that would have helped these projects to reduce the initial costs of the infrastructure and provide new water to these communities, reducing their dependence on the River Murray.

Instead, $48.6 million was spent on a pipe connecting Eyre Peninsula to the ailing River Murray. We had delays of months, even years, to respond adequately to letters; nil cooperation on access to SA Water pipelines; massive augmentation fees imposed on communities and a refusal to build desalination plants, or allow anyone else to do so, using SA Water's—that is, the taxpayers—$6 billion worth of infrastructure. This seems to be the government standard, all the while taking over $1 billion out of SA Water into general revenue—that is $300 million last year alone—and threatening to put up the price of water because we are using too much.

Time expired.

NUCLEAR POWER STATIONS

Mr KOUTSANTONIS (West Torrens) (15:51): I am always stunned when the member for Flinders speaks. She has just outlined the Liberal Party's policy for the next state election: the price of water will go up, SA Water will be privatised and it will charge extra for delivery. It is amazing that they let her speak in this place at all: she just lets it out of the bag.

Today, I wish to talk about the coming federal election and its implications on our state. I am concerned about Prime Minister Howard serving 13 to 14 years as Prime Minister of this country because of what he will do if he receives another mandate from the Australian people. Most importantly, I am concerned about his policy on nuclear reactors and that he has committed the coalition and the Liberal Party to build 25 nuclear reactors in Australia by 2050. Mr Howard has

said that he will not rule out power stations anywhere in Australia. He has also said that he will let the location of those nuclear power stations be determined by—guess what—commercial interests. That means these things: close to the grid, close to a ready workforce and close to emergency services—not what is in the best interests of South Australians. What concerns me even more about Mr Howard's plans for a nuclear power station is the reaction of our local Liberal MPs here in South Australia, who are meant to be standing up for South Australia instead of some New South Wales politician.

Laura Anderson, a journalist with News Ltd and *The Advertiser* asked Liberal MPs a series of questions about whether they would support nuclear reactors in South Australia. The people who said that they would were Senator Cory Bernardi, Senator Hedley Grant Chapman, Senator Alan Ferguson and Patrick Secker. Those who refused to rule it out were—guess who—Andrew Southcott and Christopher Pyne. For the first time in 50 years, the people of Boothby have the opportunity to change the government. It has been a safe Liberal seat for 50 years. This time that seat will be pivotal in the choice of whether Australia is governed by a new leader, Kevin Rudd, or the same old tired leadership of John Howard. Dr Southcott has not ruled out a nuclear power station being put in Boothby. Why is that? Because there is one location that is close to the grid, close to a ready source of water and close to a ready source of emergency services, and where is that?—Port Stanvac.

Members interjecting:

Mr KOUTSANTONIS: The member for Schubert will be retiring soon, to be replaced by David Fawcett when he loses in Wakefield, given what his leader said about him. I challenge Senator Bernardi to come out tomorrow and rule out a nuclear power station being put in Port Stanvac. I challenge Dr Southcott to come out and say that he will stand up for the people of Boothby and say that there will be no nuclear power station in Port Stanvac. I noticed that one of the sites mentioned by the Prime Minister as an appropriate place for a power station was in the Adelaide Hills. I would have thought that the member for Heysen would be more concerned about a nuclear reactor going up in her seat than attacking me for making a speech defending South Australia. It always amazes me how the member for Heysen fits into the Liberal party, given that no-one agrees with her on any policy matter she brings up. She has always been torn down in her shadow cabinet or caucus.

Let us hear from Andrew Southcott just once. We all know he is lazy; we all know that he does nothing; we all know that he spent $60,000 in New York a few years ago on a taxpayer funded trip; we all know how he does not get around the area of Boothby at all; and we all know that his own local Liberal state MPs think he is useless. We all know that his local FEC thinks he is lazy; we all know that his branch thinks he is lazy. How about just for once he comes out and stands up for the people of Boothby and says, 'No nuclear power stations in Boothby'. But he will not. He was asked by a journalist to rule it out, and he would not. Why is that? Why will an incumbent Liberal MP in a 'safe seat' not rule out a nuclear power station? Do you know why? Because he believes in it passionately—it is his ideology. He believes in nuclear power. He does not believe that it is dangerous. It is his vision for Australia. Mr Southcott must rule that out immediately. I commend the good work that Laura Anderson has done in making sure that the people of South Australia are well informed of Mr Southcott's plans for Boothby.

Time expired.

ENVIRONMENT PROTECTION (SITE CONTAMINATION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 27 September 2007. Page 989)

Mr GRIFFITHS (Goyder) (15:56): I confirm that I will be the lead speaker for the opposition this afternoon for this bill.

Mr Koutsantonis: Hear, hear!

Mr GRIFFITHS: I thank the member for West Torrens for his confidence in me. The Environment Protection (Site Contamination) Amendment Bill was introduced in the Legislative Council on 1 May. I am aware that this has been many years in the planning, and no doubt there are issues with contaminated soils all across South Australia. The benefit of hindsight is certainly a wonderful thing, but, in reality the history of the development of South Australia has included many activities that are now causing enormous concern as our state and our economy grow and

development occurs. These developments were needed at the time—predominantly they were on the fringe of the city and towns and deemed to have been in an appropriate location—but, we now know that the cost of remediation will be immense if future development proposals are to take place without the possibility of exposing residents to any health risks. The majority of other states have similar legislation in place. The last, I believe, to enact this type of legislation was Western Australia in December 2006.

The bill is designed to deal with issues where soil contamination occurred prior to the implementation of the Environment Protection Act 1993, which came into force on 1 May 1995. The minister's second reading speech, which I have read in some detail, referred to developments such as the Port Adelaide waterfront, where the Land Management Corporation is undertaking work at a value of some $40 million to allow a redevelopment of up to $2 billion to take place. No doubt this will be the way of a lot of future developments also. Indeed, one of the promotions for a television show last night talked about the remediation costs for the rail yards to allow the development of the Marjorie Jackson-Nelson hospital. They referred to a figure, I believe, of some $700 million. I did not get a chance to watch the show—

The Hon. J.D. Hill interjecting:

Mr GRIFFITHS: The minister is shaking his head at that but, given that the budget shows only $15 million, it will present a bit of a challenge. I find it quite amazing—and I hope that the minister is able to correct my comments—but no doubt it will cause a headache for the Premier, the Treasurer, the Minister for Health, and the government in trying to fund this project if remediation costs blow out to that sort of figure. I wish to commend—

Mrs Redmond interjecting:

Mr GRIFFITHS: Yes. As the member for Heysen says, especially as the government has to pay that and it is not part of the public-private partnership development cost. I wish to commend the shadow minister, the Hon. Michelle Lensink, for her work on this bill. I also want to thank the officers who provided the briefing to members of parliament. Many, like myself, had a lot of questions to ask, but we were provided with good answers that gave us an understanding of the intention of the bill. We have been very concerned about this. In our portfolio debates and party room debate on the matter we really did recognise the importance of this bill and the issue involved, and we want to contribute as much as possible to try to improve it. I am pleased that some amendments have been considered.

It is fair to say that some opposition MPs have a historical perspective on this bill because they were involved in government when it was first discussed. In my own case, though, my previous involvement in local government has made me acutely aware of the need to ensure that the potential contamination of development sites needs to be investigated. Detailed historical knowledge of the use of the land is not always available, nor, indeed, is knowledge of for what use adjoining or close land to that development has been used in previous years. No person wants to see a development proceed on the assumption that everything will be okay only to find out at a later date that the ground was contaminated and there is a need for an expensive remediation, a health risk is posed to people who live there and there is the threat of the development becoming useless.

I think I can recall that Housing Trust premises somewhere in the metropolitan area needed to be vacated because the ground was found to be contaminated. Even in my own electorate of Goyder, I am aware that, about three years ago, a development application was received for a tavern at the small coastal community of Corny Point. It was on land on which a fuel depot was based previously and there was an underground petrol storage facility. We demanded that the developer undertake an audit of that site to prove that it was okay. He did not want to do it and legislation did not necessarily give us the capacity to do that. This bill will trigger those things occurring as a matter of course.

I will refer to a few things on which the shadow minister has provided some information. The opposition did consult quite widely on this matter. We spoke to Business SA, the Local Government Association, the Property Council, the Master Builders Association, the Motor Trade Association and the Engineering Employers Association. Clearly, the bill was a risk-based approach to remediation; that is, it does not assume that the existence of pollution is equivalent to contamination that must be remedied: it depends upon its intended use of the site. It is also based on the principle of the polluter pays and it relies on the elements of contract law. Establishing that a

site is contaminated is not dependent upon what volume of pollution exists on a site. For example, a site may contain a volume of carcinogens, but if no human will enter it and the pollution is not harming the environment, it is not deemed to be contaminated. It depends also on what the site is to be used for. In particular, if a site is to be developed for a sensitive land use—and a school would be a good example—the site contamination process will be triggered. The standards for industrial zoned land are obviously not as high as for sensitive land use such as schools and residential developments.

Site contamination is not pollution; in other words, a site with contamination will not have to be cleaned up completely: it only needs to be remedied to the appropriate level for its intended use. This is a significantly different approach from that in some other jurisdictions which requires the contamination to be cleaned up completely, which is a very costly process. A key thing in the consideration of the opposition was: who will be asked to assess the condition of the allotment and clean it up, and therefore who pays?

In the first instance, the EPA will serve notice on the appropriate person who is either the original polluter, if that person is able to be identified and found and if in fact they are still alive, or the current owner of the site. These provisions will not proceed if the appropriate person has died or, in the case of a body corporate, if it has ceased to exist, cannot be located or does not have the financial resources. A person who brings about a change of land use that results in site contamination becoming relevant—for example, a developer wants to convert an old industrial site into a residential development—will be deemed to have caused site contamination. A key issue for such people and developers to consider on any land that they acquire is to determine the condition of that soil.

The Environment Protection Authority has been given powers under this bill both to serve a site contamination assessment order and to assess the site of risk; that is, conduct an audit and then potentially a site remediation order. This bill respects the arrangements between the vendor and the purchaser to devalue polluted land and to transfer the liability for contaminated land to the purchaser as part of the price. I note in *Hansard* from the Legislative Council the extensive comments of the Hon. Mark Parnell on this issue and his example of where a completely innocent person purchased a block of land with the intention of developing it, but did not have the capacity to remediate the land, and therefore did not have the capacity to develop it in any way and the land became useless to them and they could not give the block away. As information provided to us by the Environment Protection Authority indicates, without the inclusion of retrospective provisions, this bill would not offer any benefits above the current act. The EPA is aware of several significant issues that it is powerless to pursue because the pollution occurred prior to 1995. This bill will allow that to be corrected.

I note that, in reviewing *Hansard*, eight amendments were proposed by minister Gago, nine amendments were proposed by the shadow minister (Hon. Michelle Lensink) and five amendments were proposed by the Hon. Mark Parnell. Some of those were supported, some rejected and some withdrawn, but it shows that the parliamentary process has worked quite well in this case. Many groups have had input: it has been years in the development. Let us hope that the act will serve its purpose and give some surety to development opportunities in South Australia. With those few words, I confirm the opposition's support for the bill.

The Hon. S.W. KEY (Ashford) (16:06): I am very pleased to be part of this debate. It is an area in which I have been interested for quite some time. As members in this chamber may be aware, I served on the Housing Trust board for some 12 years and this was an issue of great concern, particularly before we had an urban development system or city planning of any note, other than obviously the establishment of Adelaide. There was real concern about sites that had been used for many purposes. Whether it be contamination caused by foundries or whether it be contamination caused by the tanning industry, the contamination makes it very difficult to then set up residential facilities or even commercial sites without there being some sort of remediation. In June this year I also had the honour of attending an international conference about contaminated sites and remediation. It was an international conference hosted by South Australians. Some 30 countries were represented at this conference. They were looking at this issue and also at some of the advances that have been made regarding site contamination, and how polluted substances and infill from contaminated sites can be turned into successful chemicals for agriculture and other purposes.

As I said, I am very happy to support this bill. I believe that it is a significant piece of legislation that has been in the making for a number of years, and I am pleased that it has finally

come to fruition. I know that there has been extensive consultation making sure that people who should have their say have been able to develop the draft bill. Some of the stakeholders include Business SA, the Local Government Association and the Property Council of Australia. I think this bill will fill a significant gap in our legislation as South Australia is one of the only states or territories that does not have legislation to manage site contamination.

This amendment to the Environment Protection Act is necessary as current powers under the act do not extend to contamination resulting from activities that occurred before the commencement of the act on 1 May 1995. Again, many members in this chamber will have come across different problems in terms of residents—our constituents—living next door to particular industries or where industries have been located and the problems associated with that cohabitation. By not having a legislative framework to adequately regulate and manage the assessment and remediation of site contamination we are posing the risk that negative public health, environmental, social and economic impacts may arise as a result of site contamination.

My colleagues on this side of the house will mention other aspects of the bill, but I would like to talk about one particular part of the bill, which aims to set up an accreditation scheme for site contamination auditors. I am particularly interested in this area as I believe there are some great analogies with the need for accreditation in the area of occupational health and safety. Certainly in the environment protection area it is important that we also have this accreditation scheme. I am aware that a concern was raised by one part of the development industry that the use of auditors would increase costs and delay development.

Obviously, this is something that needs to be taken into consideration. Another concern raised was that not enough auditors would be available to handle this legislation and any sudden demand. In the first instance, I am informed that better developers in this state have been using auditors accredited in Victoria or New South Wales on projects such as the Port Adelaide waterfront redevelopment. There will certainly be an increase in the demand for auditors when this legislation is operated on, but I am told that more than 65 auditors exist in Victoria and New South Wales, and more have been accredited under the Western Australian act.

These professionals can apply to become accredited auditors in South Australia through an automatic process under our mutual recognition legislation. While concerns have been raised, I am advised that this process should assist in that respect. Further, the accreditation of suitable South Australian applicants can occur between the time of assent to the bill and its commencement, which is envisaged to be some 12 to 15 months from the assent to major parts of the bill. On this point, the house should note that some parts of the bill will come into operation ahead of others.

It is envisaged that the provision to accredit auditors—including, for example, interstate auditors—will come into operation before others to ensure that sufficient auditors are available. Many of these require supporting regulations. Initial drafting instructions for the regulations based on the current bill have been prepared and will be finalised upon assent. Members of this house should also note that the draft regulations will be subject to consultation. Where an assessment or remediation order is given an auditor may be required and there will be costs.

However, not every assessment or remediation order will automatically require the use of an auditor. Whether an auditor is required will depend on the degree of risk arising from the contamination. Another of the strong points of the bill is that it is a risk-based approach to managing contaminated land. Where an audit is to be undertaken, in accordance with the development proposal, there will be costs. These will form part of the total development costs that are borne by developers in other jurisdictions. I am sure that members in this house would agree that an audit by a suitably qualified professional is necessary to ensure the land is fit for its intended use. As I mentioned earlier in my contribution, auditors are already being used by developers as best practice. This bill will provide a more even playing field for developers and for the benefit of us all. Members in this house should also note that, throughout the western world (including Australia), where assessment and remediation of derelict contaminated land known as brownfields has occurred, the property value has increased substantially.

As I mentioned with regard to the international conference I attended in June this year, this issue was raised by many of the contributors to that conference. Interstate one can mention Homebush and the Melbourne waterfront while in South Australia we have the contaminated rail yards at Mile End, which is very close to the electorate of Ashford. I am also sure that the member for West Torrens will be pleased to hear that an intensive remediation process took place with regard to developing some of the beautiful sporting complexes that we now have in that area.

These areas are used extensively by local, national and international athletes. The SANTOS Athletics Stadium, the netball complex and more than 30 residential allotments have certainly benefited from a proper process being put in place with regard to contamination, identification and remediation. I commend the bill to members.

Mrs GERAGHTY (Torrens) (16:15): I express my support for this bill. Like the member for Ashford, I have a great interest in this bill for a varied number of reasons. There is a demand for land in South Australia, in particular for residential land in the Adelaide metropolitan area, which is leading to the redevelopment of former industrial/commercial areas and other areas such as market gardens where activities were undertaken that have resulted in site contamination. A number of areas in my electorate are under redevelopment and, luckily, at this time these redevelopments are not inflicted with this problem. The Port Adelaide waterfront development is one example of the redevelopment of contaminated land.

It is important for the house to recognise that the bill is about dealing with site contamination from historical activities. This contamination already exists and may pose a significant risk to human health or the environment, but we do not have the powers to deal with historical contamination that occurred before 1995. Current pollution that may lead to site contamination is addressed by the current Environment Protection Act where the pollution occurred after 1 May 1995. We need this amendment to address pollutions that have occurred in the past. This bill has many innovative provisions, such as the transfer of liability to allow the legal transfer of full or partial responsibility for the site contamination on the sale or transfer of land from vendor to purchaser subject to agreements.

I would like to focus on one strength of the bill, namely, its risk-based approach to dealing with site contamination. The bill takes a risk-based approach to managing contaminated land by enabling the EPA in the first instance to require the appropriate persons—initially the person who caused the contamination—to carry out an assessment of the land to determine the nature and extent of any contamination. Depending on the findings of this assessment, if necessary, because of the degree of risk, the EPA can require the remediation of that land. Taking a risk-based approach to determining whether site contamination exists is commensurate with better regulation principles espoused by national and state governments and places South Australia ahead of comparable legislation in other states.

We have to ask ourselves: how does this bill work? One way is through the definition of site contamination using a risk-based approach. Under the definition it is not enough for there simply to be chemicals on a site. In the first instance, these chemicals must have been added to the site as a result of an activity by a person and they must be above background levels. This legislation does not apply to situations where chemical substances are at higher than normal levels due to natural processes.

The second important part of the definition of site contamination is that the mere presence of these chemicals is not enough. Their presence must result in actual or potential harm to the health or safety of humans and to the environment or water. However, when assessing whether or not site contamination exists, the impact on health or the environment must take into account the land use where the contamination exists. For example, if there are chemicals on a particular site (using the risk-based approach), if the land is used for an industrial purpose, there may not be a risk to the health of humans or the environment. Therefore, site contamination does not exist and the EPA would not become involved. If the same land were to be used for a sensitive land use such as that which is defined in the bill (for example a primary school or a preschool), there would be a risk to the health of young children and site contamination would be said to exist. One may ask why young people may be more vulnerable than adults on this site if it was changed from industrial to residential use.

The Hon. I.F. Evans: Yes; I would ask that.

Mrs GERAGHTY: Thank you; I am glad that someone is listening. It is because worldwide it is recognised that young children are more inclined to put dirt in their mouth. As a result of having children, I know that. I know they like to eat blowflies, as well, but we do not want them putting contaminated goods in their mouth. Often, they are referred to as 'picker' children. 'Picker' is a normal process in children. It means putting non-food items, such as flies, in their mouth and it is said to occur in as many as 25 to 30 per cent of children. If I think of our own two sons and three grandsons, we are probably in a very high statistic.

The bill continues this risk-based approach in how it defines remediation. Remediation does not mean the total clean-up of a site to pre-contamination condition. Rather, it refers to treating, containing, removing or, most importantly, managing chemicals on a site to eliminate harm to humans or the environment. Again, land use is to be taken into account when determining remediation. This risk-based approach is the direction that site contamination management is heading internationally and in this regard the bill is in the forefront of best practice regulation.

There is one part of the definitions of 'site contamination' and 'remediation' under the bill where land use is not taken into account, and that is where site contamination impacts on water, in particular, groundwater. This is because harm to water is deemed to be a high risk, as groundwater can transport contaminants from one site to another, thereby contaminating that land as well. Thus, it does not matter if the land use of a contaminated site is industrial. If the contaminants can be carried by water they must be measured to ensure that human health and safety are not impacted. So, site contamination exists.

Management, however, does not necessarily mean total clean-up. For example, where the contaminants in groundwater are restricted to an aquifer and the impact on health is connected to the extraction and use of that water, the bill gives the EPA the power to restrict or prohibit the taking of these waters. Where the contaminants are more volatile, such as may be the case for hydrocarbons that have leaked from underground storage tanks over time, and there is a risk to human health, more comprehensive remediation may be required. In addition to placing contamination of water in the higher risk category, separating harm to water from land use reflects the importance placed upon this precious resource, in particular, upon groundwater.

In conclusion, this bill offers a number of major benefits, not the least of which is that this state will have a legislative framework to manage site contamination. It gives the EPA the powers necessary to order appropriate persons to competently assess, remediate and manage site contamination wherever this may be necessary and, of course, appropriate. It identifies the appropriate person by developing a framework for determining the person responsible for the site contamination but also enables 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.

A final benefit of the bill is that it recognises that there is a body of people independent of government who are highly skilled in site contamination, namely, site contamination auditors, and it establishes an audit accreditation system. I commend the bill to all members of the house

Mr HANNA (Mitchell) (16:25): I will say a few words in support of this legislation, and I refer to the Environment Protection (Site Contamination) Amendment Bill. It is high time that we had legislation to deal with the problem of site contamination, so I commend the government for that. I understand that there has been a lengthy preparation and consultation period leading to this legislation's coming into parliament. However, there are some suggestions I will make to the government. I think they are not so much a matter of amendment to the legislation as ways in which the whole business could be better managed. I would like to bring these ideas forward from the People's Environment Protection Alliance (PEPA). I think they have some excellent ideas when it comes to the problems of site contamination.

To summarise the submission that group of people contributed during the public consultation process, they considered that there needed to be a contaminated sites body to deal with the issues relating to site contamination. Obviously, we have the EPA at this time, but one of the problems that members of the public face when they come across a contaminated site is the necessity to go to a range of different agencies to get a full grasp of what is going on. For example, there might be health issues; there might be industrial chemical issues; there might be interaction with local government; there might need to be a legal opinion from the crown law department; and there might be issues for the local NRM group, and, of course, the EPA would be involved as well. So, it seems to me that, even if we are not going to do that by legislation, there needs to be better integration of those various agencies, maybe done administratively through the EPA itself.

Secondly, the PEPA has called for greater transparency relating to site auditing and rehabilitation. It has a concern about conflicts of interest when EPA staff or contractors have been involved in previous dealings with a particular piece of land and then the EPA is given the job of assessing it at a later time. Thirdly, the PEPA thought that the government—that is, the Crown holding land—should be treated just the same as any other freehold owner taking full responsibility for its land.

Fourthly, and this makes a lot of sense to me, the PEPA considered that a rehabilitation fund should be established by striking a levy on businesses or owners of sites which have site contamination potential. So, the concept is a little bit like the sinking fund that a strata titled block of flats might have. The owners would chip in a certain amount because one day the lift will need to be fixed, the wall around the garden will need to be fixed, or the place will have to be painted, something like that. The same principle applies here. If sites with high potential for contamination can be identified, as time goes by perhaps a small amount could be charged each year to the owners, particularly where commercial benefit is derived from operations on the land, so that when it is necessary to rehabilitate the land the cost of doing so could be spread out over many years, perhaps decades.

Fifthly, there is a suggestion that there should be certification on all land titles as to the status of site contamination. That makes a lot of sense. It is all very well to say to purchasers of land that they should beware of what they are purchasing—caveat emptor—but it would undoubtedly help to have a notation on the certificate of title when it is known that a place is contaminated. Sixthly, it is suggested that there should be compulsory signage on a site where it is known that there is contamination. This has the obvious benefit of people walking or playing on the land (whether or not they be trespassing) being aware that they face some health risk as a result of contact with the soil.

The PEPA has made some other suggestions, but I want to stress that I call on the government to closely consider the notion of having site contamination information currently held by the EPA available on a website. That is not terribly revolutionary. I believe it is done in New South Wales. In South Australia, we have a system akin to the Land Titles Office system of searching titles whereby one pays to investigate the information. But it seems to me that we are not just dealing with commercial considerations here, we are also dealing with health considerations, possibly on behalf of substantial communities, and in those cases I think that the information about site contamination should be readily accessible by the public at no cost whatsoever.

The obvious way to do it these days would be to have a website so that, if people are concerned about where the children are playing next door or if they are concerned about a new land development where they are about to buy a house or where a sports field is being marked out, they could check whether there is definitely site contamination or even a considerable risk of site contamination because certain prescribed activities have taken place on the land in the past.

I urge the government most strongly to take that into account. I realise that this legislation has already been dealt with by the Legislative Council, but a number of matters remain which could be taken on board by the government and the EPA and improved through administrative means, not necessarily through amending the legislation.

Ms FOX (Bright) (16:33): I stand to express my support for this bill. My colleagues on this side of the house have explained why this legislation is necessary; they have discussed some of its strengths and they have raised a number of the benefits to the community of having this legislation in place. Mention has been made that the bill has been a long time in the making, but this is a reflection of the extensive level of consultation carried out in developing the bill—consultation with key stakeholders, in particular.

The very first draft of the bill is based on drafting instructions developed from the report of an Advisory Committee on Contaminated Sites (ACCS) established by the EPA. Membership included the Australian Bankers Association, the Australian Finance Conference, the then South Australian Employers Chamber, the City of Adelaide, the Local Government Association, the Conservation Council of South Australia, the Real Estate Institute, the Urban Land Development Institute of Australia, the South Australian Health Commission, the Crown Solicitor's Office and the Environment Protection Authority. Following this consultation, the draft bill was released for public consultation from October 2005 to 27 February 2006.

As part of the consultation process, the EPA held nine public meetings in Adelaide and in major regional centres. In addition, some 40 briefings were provided to local councils, industries, industry and professional bodies, community groups and government agencies across the state. More than 40 detailed submissions were received. In the main, the submissions supported the need for the legislation with the majority of comments provided relating to specific clauses of the bill. I am informed that there were substantial changes to the draft bill based on these comments to produce the bill that we have before us today.

I commend the EPA for developing a bill that not only places it at the forefront of site contamination legislation but also relies upon the minimum amount of legislation necessary to do the job. It is designed to be effective and efficient in line with smart regulation. I also acknowledge the role of Dr Paul Vogel, the Chief Executive of the EPA and chair of the EPA board in this process. Members of the house may not be aware that Dr Vogel will be leaving the EPA in early November for a position in Western Australia. I am sure that many members would be aware of the significant contribution Dr Vogel has made to the operation of the EPA during his time as chief executive. On behalf of this government, I express our thanks for his work.

I would now like to concentrate on a major economic and social benefit resulting from the assessment and remediation of land which is the protection of human health and safety. The remediation of contaminated sites is important in the prevention of or reduction in health impacts and the costs associated with health impacts as many of the chemicals that cause site contamination are linked to various health impacts including cancers and genotoxicity. The United States EPA (USEPA) has developed a cost calculation model and it has estimated the costs of health impacts for a range of diseases linked to chemicals in the Cost of Illness Handbook. This publication also notes that improvements in human health constitute a major portion of the benefits resulting from environmental regulation. The USEPA concludes that a reduction in the risk of an adverse health effect is a public benefit because all the exposed individuals will experience a decrease in the likelihood of contracting a disease. The proposed bill will provide such a public health benefit that has direct economic benefits to the community by avoiding medical costs.

Whilst some may argue that in the final analysis the costs of assessment and remediation of site contamination are borne by the consumer, the proposed amendments will establish a regulatory framework that enables liability for assessment and remediation to be assigned in the first instance to the person responsible for the site contamination. This does not exist at present. Most importantly, in conjunction with the planning process, the amendments will ensure that land is suitable for its intended use. For sensitive land uses on land that has a history of a past contaminating activity, this will require the use of an accredited auditor. With this in mind, a developer will need to make an economically rational decision about whether the costs of assessment and remediation are offset by the revenue raised through development. In this way, much of the remediation that will occur in the state will result from market-based decisions. In this context, it is important to remember that internationally—and in Australia—some 80 per cent of remediation is carried out through land redevelopment rather than through the serving of an order.

Mention has been made by my colleagues of remediation of land in South Australia, such as the Port Adelaide waterfront redevelopment and at Mile End. There are other examples in this state, such as the former Islington railyards, which were mediated at a cost of $6 million. This entailed the removal of asbestos and other chemicals which has allowed the area to be redeveloped for open space, a playground and car-parking. The site was gifted to the Port Adelaide Enfield council. Similarly, the Meyer Oval at Largs North—4.6 hectares of contaminated land—was unsuitable for any redevelopment. The land was remediated at a cost of approximately $3 million and is now suitable for residential development, possibly for affordable housing.

On a larger scale, the Melbourne Docklands development is an integrated mixed use development of residential, commercial, office, retail, a hotel and public space development developed by the Docklands authority. Individual developers are fully responsible for remediating their sites. The Melbourne gasworks site, for example, was remediated at a cost of $50 million. With other remediation running into some hundreds of millions of dollars, this remediation will bring about some $7 billion in development value, not including the opportunity benefits such as increased tourism.

Without this legislation, land where site contamination exists will continue to be sold with the health, safety and economic costs passed on solely to the purchaser or the government. Without this legislation, there would be no level playing field for developers and, without this legislation, we would continue the current uncertainty experienced by the development sector. With that in mind, I commend the bill to members.

The Hon. I.F. EVANS (Davenport) (16:40): I want to make some comments in relation to this bill. I also have a couple of questions for the minister in relation to the bill and its impact when we get to the committee stage, which I think will probably be tomorrow. I have some constituents who have had a long-standing interest in contaminated sites. It will be interesting to get onto the

record exactly what the intent of the clauses are in relation to the bill. This bill has been in the making for about 10 years—

The Hon. J.D. Hill interjecting:

The Hon. I.F. EVANS: Longer than 10 years. The member for Bright talks about Paul Vogel's contribution but, of course, Paul has only been there for the last little bit of the development. Other officers have put in significant decades of work to develop this bill. The issue that I will be exploring on behalf of my constituents—Friends of Contaminated Sites—is the retrospective nature—

The Hon. J.D. Hill interjecting:

The Hon. I.F. EVANS: Friends of Contaminated Sites, yes, John; haven't they written to you yet? There are a number of principles: ultimately, who is responsible for the cost of the remediation, particularly the retrospective nature of that cost, and exactly what is being covered under the Environment Protection Act? While this bill talks about site contamination, it does so by amending the Environment Protection Act. We need to go back to the definitions in the main act to fully understand exactly what is covered and what is meant by the bill that is before us. I will have some questions in relation to exactly what is meant by some of the clauses in the bill.

The other issue I raise is the ability of the EPA to charge its administration costs against landholders for simply undertaking its normal role of enforcement. There are some clauses about cost recovery, which my constituents have suggested I might like to ask some questions on. Also, the impact on government bodies—SA Water in particular—as well as on entities that have been licensed to pollute, and the future impact on those entities if the licence to pollute ceases.

The other issue of interest is the impact of compulsory acquisition. That is, if I do not want the government to take my land and the government takes my land and then decides that I need to clean it up, given that I never wanted them to take my land, do I not only lose my asset but get the privilege of paying to clean it up as well? I do not think that the compulsory acquisition angle is addressed anywhere that I have seen on my brief reading of the latest version of the bill. Being away in India, I have not had the opportunity to read the upper house *Hansard,* but I notice that after decades of development of this bill—by the minister's own admission—a new definition of site contamination is tabled. The very central clause of the bill is subject to an amendment. I would have thought that the definition of 'site contamination' would have actually been resolved some time ago rather than be subject to an amendment not by the opposition but by the government. So, we have an amendment that talks about the definition of site contamination.

After 10 or more years of development, the definition is tabled today and, knowing that the government has the numbers in this house, that definition will no doubt get through. It intrigues me how we can go right through this process and have a new definition dropped on us to discuss now. I will be asking questions to confirm my understanding that this bill relates not only to the land as we know it but also the ocean. I just want to make sure how that is going to work in relation to the contamination issues.

I have always been brought up under a system and understanding that when you buy land, or anything, in fact, it is buyer beware. What we are really saying with this piece of legislation is that, for some reason, site contamination is going to be different. If you buy a block of land and there is an old mine shaft on it but you do not know it is there, the previous owner does not become liable for that, that is just bad luck, you should have inspected the site prior to buying it. There is nothing in the law that stops any purchaser of land saying to the owner, 'I am happy to buy the land subject to an audit of contamination.' I accept the fact that an audit does not guarantee that there is no contamination because finding site contamination can be very difficult, but my constituent does raise some concerns about the retrospective nature of exactly what we are talking about.

I do not know whether members have taken the opportunity to read the definitions in the Environment Protection Act of what we are talking about, but we are talking about any waste, any substance at all, that ends up in water or on land. That is the base point, and there are questions asked about whether it will cause harm, and whether, essentially in the opinion of the officer dealing with the issue, it causes risk. If we go back over the last 50 to 100 years in South Australia's history, this bill says that, wherever contamination occurs, whoever placed it there, if they are still able, will pay to clean it up if there is a risk. That is essentially the principle in the bill. So, we are talking about waste on farmers' property, we are talking about old builders' yards, old building sites and lots of commercial industrial sites that would have waste of some description.

The member for Torrens talked about sensitive areas for young children, childcare centres and that sort of thing, but the reality is that this talks about water, which can be drunk by people of any age, and gas, which can be breathed in by people of any age. So, I have some issues and questions to raise on behalf of my constituents in relation to how exactly that is going to work. There are people, farmers in particular, who have used sections of their property for years as waste dumps, whether that be under the ground or on top of the ground. It does not have to be under the ground. The Environment Protection Act makes it very clear that it can just be sitting on top of the ground, as long as it is a risk—

Mrs Redmond: Tyres.

The Hon. I.F. EVANS: No, it has got to be a risk, so whatever the risk is. The landowner then becomes responsible for it. There are some tricky little clauses in here that will need to be examined, I think, in committee. I will leave those questions for the committee stage so that I can get on the record the exact intent. There is a reason why this bill has taken more than a decade to get here, and that is because there are large amounts of land in South Australia that potentially are caught by any piece of legislation to deal with contaminated land.

An honourable member: Probably the new hospital.

The Hon. I.F. EVANS: The new hospital site is certainly caught. But there are ways to treat it and the EPA will say that the higher level order basically requires the land to be dug up and taken away, and then that contaminated land—

Mrs Redmond interjecting:

The Hon. I.F. EVANS: —no, this is how it works—gets stored in a licensed position, or if they can clean it up they can then place it back. That is if it is going to be fit for human contact, which covers the point made by the member for Torrens about kindergartens, preschools, and the like. Then there are other areas; for instance, Blackwood Forest, in my own electorate, which used to be the old experimental orchard and had some levels of arsenic, from memory, still in the ground. There were proposals simply to bituminise it over and use it as a car park. As it turned out, they did not do that, but that was certainly an option. So, there are different ways, I guess, of treating it.

I am not going to hold the house long. I understand the minister needs to go at 5 o'clock and I understand that we will be coming back tomorrow for the committee debate, so I am happy to work during the night and think up some questions for the minister so that the committee session is not wasted. I look forward to the minister's answers, so that I can say to my constituents that they have nothing to fear from the retrospective nature of this legislation.

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (16:50): I thank all members for their contribution to this debate, and I particularly thank the opposition for indicating its support of the legislation. I know it supported it in the other place. A number of amendments, which have been referred to, were moved and accepted, in large part I think, by the government. There are a couple of issues I would like to deal with today and then I will be seeking to adjourn the debate. I do wish to amend my own bill, however. The reason we are amending the bill is because in the other place the Hon. Mark Parnell, leader of the Greens Party, moved an amendment which the government accepted and there was an unforseen consequence of that amendment. The amendment that I am moving corrects that and makes clear what was intended and would have been plain if the Hon. Mark Parnell's amendment had not been passed. I believe that is the case, but I am having that confirmed.

The Hon. I.F. Evans interjecting:

The Hon. J.D. HILL: I will do that in committee.

The Hon. I.F. Evans interjecting:

The Hon. J.D. HILL: It is a déjà vu kind of experience I am having here, Mr Speaker. The experience of the bush lawyer from Davenport asking questions on legal matters is always interesting and I am always happy to oblige him. I will give the honourable member the advice that I have from parliamentary counsel about the particular amendment:

The amendment is made to avoid the possible interpretation that for site contamination to exist, chemical substances must have been directly introduced by human activity to the particular site contaminated. By removing

the words ‘introduced to the site' and by the addition of subsection (1)(b), it will be clear that site contamination will exist regardless of whether the chemical substances have been directly introduced at the site or introduced at another site and migrated to the site in underground water or otherwise. This amendment is necessary as a result of the amendments to sections 103C and 103D in the other place which resulted in the removal of an explanatory note to the same general effect.

I invite the member to study that, and if he would like further clarification I have a number of people in the gallery who would be delighted to assist him.

I will make some general points about the legislation. When I was environment minister in the last government, this site contamination bill was one that I was pursuing quite actively. I was pleased that it was eventually put out for consultation. I am extraordinarily pleased that it is now about to be passed into law. This is very important legislation because it will provide certainty to owners of land and to people who are thinking of purchasing land. The EPA legislation, which came in, I think, in 1993, created a sense of certainty for pollution events that occurred after that event, but it did not do anything about the legacy issues. Members have mentioned a number of legacy issues, which have created uncertainty in the community and made it difficult for potential purchasers of land to know what they are letting themselves in for. This will create a regime where those uncertainties can be dealt with in a risk management way: not restoring land to a pristine state, but restoring land to a state which is fit for the purpose for which the purchaser is buying it.

There is a hierarchy of responsibilities. In all cases the EPA will seek to find the original polluter or polluters, as there may be multiple owners of the site who have been polluting. If they are no longer available, the current owner of the site has to then take on that responsibility. To say that it would be anything else would be meaningless. If it is not the current owner, who could it possibly be? And, of course, if there is no current owner, the government will in some cases be the default manager of the site. I think this has been very well worked through. It has been consulted to death, particularly in the community with people who have an interest in purchasing and selling properties, and I understand that a number of amendments have been made in the development of the bill to pick up their concerns and interests.

The member for Goyder mentioned the Marjorie Jackson-Nelson hospital and the railway site and referred to a television program last night purporting to be a current affairs program, which had a shock, horror expose on the polluted site of the railway land. Well, let me confirm that the railway land—surprise, surprise—is a polluted site. I think I indicated that at the press conference when I spoke about what we intend to do with this site in relation to the hospital. It is a highly polluted site. Whether or not the hospital is to be built there and something else is to be built—as the Leader of the Opposition would wish—such as a sporting complex, a tourism facility, parkland, or whatever you would want on the site, the pollution is such that it would still have to be cleaned up.

As part of the development of the site, of course, a large parcel of soil will be removed because the hospital proposal will have, from memory, three storeys underground for car parking. That by its very nature would involve the removal of a large slab of the polluted ground, but I am told that more pollution management than just that will be needed. We are currently going through a whole process of proper site evaluation, tests, audits, and so on, to get a handle on it. But there is money in the proposed budget for the hospital to manage all that. I am very confident that it will be managed. I think that last night on television the producers of the program suggested that the site contamination would cost close to $1 billion. I have had my officers look at the figures that they were suggesting, and they cannot work out where they got their information. It certainly was not from us, because they did not come to the minister and ask him for information or a response to what they proposed to put on their program.

Finally, I would like to take this opportunity to thank the officers of the EPA who have been involved in the development over many years. This has been a difficult thing to try to get together. In particular, I thank Gillian Smith, the EPA's senior policy officer; Will Van Deur, the EPA's principal policy officer; and Andrew Pruszinski, the EPA's principal officer for site contamination, who have been very much involved in and at leave of the parliamentary counsel. I also take this opportunity to thank Dr Paul Vogel who, as head of the EPA for the past five years, has been an outstanding public servant and officer. It was his energy and desire to get this achieved, which has finally brought this matter to a position where it is now being considered by the parliament. I also take this opportunity to wish him well in Western Australia. After five years in this state, he is returning home to take up a similar position with the EPA in Western Australia. It is a great loss for our state, I think, but it has been fantastic having him here working with us. He has been a really great leader of the EPA.

Bill read a second time.

In committee.

Clause 1 passed.

Progress reported; committee to sit again.

LEGAL PROFESSION BILL

Adjourned debate on second reading.

(Continued from 26 September 2007. Page 933.)

The Hon. M.J. Atkinson interjecting:

Mrs REDMOND (Heysen) (17:01): As the Attorney points out, I was quite early in my remarks after the first 4½ hours of debate on this bill. He will be pleased to know that, having reached clause 140 or thereabouts, I should not take so long to go through the remainder of the bill. I indicate that, provided the Attorney does not heckle me during my comments, I am likely to be much quicker than I was in the first part. I want to talk about a few things and I do not want to rush consideration of the bill because a number of issues are still to be addressed and, in particular, the most important part is the issue of the guarantee fund. I got to division 8 of chapter 2 relating to the local registration. A couple of salient points related to clause 172, which allows consideration and investigation of both applicants and locally registered foreign lawyers.

It is a corn on uniform provision, which gives extensive power to the society to investigate people. It is in addition to the consideration of the suitability matters defined in clause 9. Also clause 175 gives power to the society to exempt Australian registered foreign lawyers from compliance with a specific provision of the act or the regulations. There does not appear to be any equivalent provision for the society to grant any sort of exemption for local or interstate lawyers, only for Australian registered foreign lawyers. Therefore, I will be seeking from the Attorney in due course and probably at the committee stage an indication as to what they have in mind in deciding that there should be a power in the society to exempt Australian registered foreign lawyers from any or all of the provisions of the legislation.

Part 7 deals with community legal centres. According to the information that has been supplied to me, it appears to me to be not classified as either core uniform, core non-uniform, non-core, or even reflecting the existing Legal Practitioners Act. I say that by way of observation, but the most important part of that section is that some later provisions allow moneys to be paid for the funding of community legal centres through various mechanisms but, most importantly, clause 179 spells out that an Australian legal practitioner who provides services on behalf of a community legal service or legal centre is not excused from compliance with professional obligations.

There is also a provision to allow the community legal centre to be subrogated to the rights of a person whom they have assisted. If, for instance, someone who comes to a legal centre with a good claim is assisted by a community legal centre to pursue that claim and is in due course awarded costs, then those costs would flow to the community legal centre rather than be a windfall to the person who was assisted.

Chapter 3 deals with the conduct of the legal profession and provides that the society (that is, the Law Society) may make rules for both Australian and foreign legal practitioners, including rules as to standards of conduct; and specifically their rules are not limited to things which are authorised under this act, but they cannot be inconsistent with anything that is in the act. The society is also specifically authorised to make rules for incorporated legal practices and for multidisciplinary partnerships. Failure to comply with those rules is essentially capable of being classified as either unprofessional conduct or professional misconduct which, as I have spelt out previously, is the more serious form of conduct which is considered inappropriate.

We then come to part 2, which deals with trust money and trust accounts. This is where we start to get into the area which I think, at the present time, is the most significant in terms of this legislation. Essentially, much of it reflects what is already in our Legal Practitioners Act 1981, although it does define somewhat more tightly what is included and not included in trust money, in particular to exclude money that might be held by a law practice for or in connection with financial services which would normally come under the Australian financial services licence provisions.

The Law Society has specifically given power to determine what is and what is not trust money. Interestingly, because of the consequence of having incorporated legal practices and practices which are obviously national in their nature, the bill defines trust money to include specifically trust money which is received in this jurisdiction even if the practice does not have an office here, as well as trust money received in another jurisdiction if the law practice has an office here but not in the jurisdiction in which the trust money has been received.

Protocols are set out in the legislation to determine where and when money has been received into trust. It strikes me as a little odd that money received here is trust money here for the purposes of this act even if there is no law office here. However, conversely, money received in another state is trust money here if we have got an office here but not in another state. That is the way I read the legislation. It seems to me that that would have to be then inconsistent with what would happen in another state where they would be saying, 'Well, notwithstanding that your firm has not got an office in Victoria, if the money is received in Victoria we want to claim it as trust money in this state.' The Victorian trust people then say, 'Well, hang on a minute, no, it was received in Victoria. Notwithstanding that you do not have an office in Victoria, it is trust money in Victoria.' I do see a potential problem in that area; and, perhaps, it is something I will want to explore during committee.

That follows through then to clause 203, namely, if a practitioner receives trust money they must have a trust account in this jurisdiction, and that is one of the core uniform provisions of the bill. As I said, basically, a lot of this maintains the regime that already exists—although with somewhat different wording—in relation to the deposit and withdrawal of moneys from the trust account. Clause 215 specifically deals with the situation whereby if a practitioner causes a deficiency in a trust account or fails to pay or deliver money, the maximum penalty has been increased to $50,000.

There is also a provision relating to a practitioner who becomes aware of an irregularity being required to give notice to the society. I was interested in the use of the term 'becomes aware', because it seems to me that you could, perhaps, be a relatively junior practitioner who might become suspicious about something that is going on but not necessarily be aware in the sense of knowing for sure that something is going on which might be untoward in terms of how the trust account of the firm at which you are working is being managed.

I may also ask about that issue of a practitioner becoming aware and exactly at what point one is deemed to become aware and have that obligation imposed to give notice to the society. There is also a provision that a practitioner must not knowingly receive money under a false name; because, of course, there was always potential for the problem of practitioners, who knowingly have clients who may be involved in nefarious activities, needing large amounts of money to be parked somewhere and potentially being parked in a solicitor's trust account. I take it that that is what that particular clause is seeking to address.

I make no complaint about it, I just make the comment that that appears to be what is being sought to be addressed. At clause 220 and subsequent to that we deal then with what are now called investigations and external examinations. At one point they were called internal audit and external audit. What was involved was that people who were known throughout the profession as the Law Society's auditors came out to legal practices on a supposedly random basis to audit the accounts.

In addition to that, whether or not they had that happen regularly, every year each practitioner had to pay an approved auditor to undertake an audit which was then reported back to, I think, the Supreme Court. The process is not unlike what already exists. They did change the name sometime ago so that the internal auditors became known as Law Society inspectors and the external auditors were simply known as auditors. The provisions largely reflect what was in the Legal Practitioners Act, although I must say that I had some considerable concerns about the way in which the internal audit process previously operated.

As members may be aware, I ran my own very small legal practice in Stirling before coming into this place. I ceased practising and did not take out a practising certificate once I was elected. However, during the course of running that practice for several years I was audited on a surprisingly large number of occasions by these internal Law Society auditors. As I said, I already had the annual audit with the auditor I had to pay for, but in addition I did have a large number of examinations by the people who were known as inspectors (and will now be known as investigators) from the Law Society.

Ultimately I formed the view that they were examining my accounts, not because 5¢ was ever missing or unaccounted for—they were very straightforward. I believe that I was being audited so frequently because it gave them the opportunity to do what was obviously going to be a straightforward, uncontentious audit. They could put a tick in a box to say they had completed an audit. They had the benefit of a lovely day in Stirling with a very straightforward set of books. My office was never computerised. It was always only ever me as a practitioner, and there was a great limit on the amount of money that was being held in my trust account because, at any given time, it was usually only from a single conveyancer or estate and, as a result, we were audited far more frequently than we needed to be.

I got to the point before I finished practice where I was notified yet again that the Law Society people were coming to inspect my accounts. I said, 'You can come when you have shown me that you have audited everyone in the state as often as you have come here.' I had formed the firm view that I was being picked on, not because I had done anything wrong or anything was missing but, rather, because I was an easy target and they got to tick an easy box. The process will basically stay the same as it has been until now.

I note that, in addition to the powers set out in terms of both the investigations and the internal examinations in these clauses, additional powers set out in Chapter 6 are quite extensive. Essentially, clauses 221 and 225 entitle investigators from the society or external examiners to carry out what they call a routine investigation on a regular basis to ascertain whether a practice has complied with the provisions of the act and to detect fraud and prevent fraud. Clause 221 provides that 'this subsection does not limit the scope of the investigation or the powers of the investigator'. It then refers to Chapter 6 and the powers under that section being specifically incorporated.

Chapter 6 encompasses clauses 448 to 466. Those clauses apply to trust account investigations (the internal investigations conducted by the Law Society) and examinations (external examinations by paid auditors). In addition to those monetary-type things, it applies to complaint investigations (where someone has complained about the behaviour of a legal practitioner) and incorporated legal practice audits. In essence, the investigator can require access to documents and information relating to the affairs of the practice that he reasonably requires. Failure to comply has a $50,000 penalty and, potentially, one-year imprisonment. It is quite significant.

One will see that the penalties in the bill have been increased significantly, often from $10,000 up to $50,000, but this is the first provision in the bill where there is a penalty of one-year imprisonment for failure to comply with an investigator's request for information and access to documents. Similarly, they can require a practitioner to produce specified documents and provide written information—if necessary on a statutory declaration—and to otherwise assist with and cooperate in the investigation. They are not even excused because there is the possibility of self-incrimination, although anything they say that is incriminating can be used only in proceedings under this act. Failure is potentially a matter of unprofessional conduct and/or professional misconduct.

In addition to all that, these inspectors have powers of entry and search, including the power to operate equipment, take possession of equipment, use and photocopy, take away computers. They can also require persons on the premises to state various things. I am sure the Hon. Graham Gunn (if he were here to comment) would be horrified by what they can require. Clause 456 provides that they can request any person on the premises:

(i) to state his or her full name, date of birth and address;

(ii) to answer (orally or in writing) questions asked by the investigator relevant to the investigation;

(iii) to produce relevant material;

(iv) to operate equipment or facilities on the premises for a purpose relevant to the investigation;

(v) to provide access (free of charge) to photocopying equipment on the premises the investigator reasonably requires to enable the copying of any relevant material;

(vi) to give other assistance the investigator reasonably requires to carry out the investigation;

(k) do anything else reasonably necessary to obtain information or evidence for the purposes of the investigation.

It is a comprehensive set of powers for someone entering the premises. It is 'any person on the premises' so it could be the secretary. It will bind not just the practitioners bound by this bill, but also anyone else. In addition, there are specified powers for the investigation of incorporated legal practices and multidisciplinary practices, as well. As I have indicated already, there are penalties for obstruction, as well as potential findings of unprofessional conduct and/or professional misconduct in relation to those issues. They have ramped up significantly the powers of inspectors to enforce cooperation in any investigation undertaken either by inspectors or auditors.

In relation to the combined trust account, by way of background explanation I indicate that the system is basically the same as it has been for some time. When you are a practitioner you may receive money into trust. That money does not sit in the trust account. It has to be kept in a separate account from the office account. That money is put into the trust account, but every six months you are required to do a calculation. In essence, subject to a formula, two-thirds of the money held in the trust account went downtown to the combined trust account. That pot of money—which was two-thirds of all the money held in all the solicitors' trust accounts around town—went down there.

There were some ifs, buts and maybes about that in the sense that there is a formula to calculate it. If you were going to have a call on the money in the trust account shortly after the deposit was due, you could excuse yourself but, essentially, that money became what is known as the combined trust account. Once the combined trust account is established, interest would be earned on the trust account. That is then put into a separate account which is called the statutory interest account. So you have the trust money from the various practitioners all around the state that comes into the combined trust act. That earns interest, and that money is known as the statutory interest account.

The society then has flexibility about investing that money and it can deduct the costs of investments and so on but, essentially, that statutory interest account is then diverted in two directions—five eighths of it goes to the Legal Services Commission and three-eighths goes to the guarantee fund. I indicate that we have not yet filed an amendment, but we are thinking about and may file in the other house in due course an amendment in relation to what happens in regard to this. There is a big question mark in my mind, for a start, about the whole philosophy behind why that money would go to those two places. I have read all the authorities, and there is quite an extensive list of legal authorities which I do not intend to take the time of the house on at the moment, and there is clear legal authority for the notion that, obviously, that money that a solicitor is holding in trust is in trust: it is notionally money that belongs to the client or whoever has the legal entitlement to it.

Therefore, interest earned on it, notionally, should belong to that person. There are good, practical reasons why it becomes impossible to sort out how to actually pay out that interest to those people, so I make no objection to the idea that, once that money comes into a trust account, it is quite sensible—and, in fact, a protective mechanism, in my view—to have two thirds of the money head downtown into this combined trust account. But, notionally, it strikes me as odd that the money, which essentially as a matter of pure legal theory belongs to the people who have their money in that solicitor's trust account, who are therefore clients of a private solicitor, earns interest and five eighths of it is paid to fund the Legal Services Commission. As I said, we are not planning to try to amend that, and that is the system as it operates, but it does strike me as odd.

I was just having a quick look at the Auditor-General's report at page 623 or thereabouts, and the Legal Services Commission last year had a 47 per cent increase in the amount of money it gets from the Legal Practitioners Act. So, what happens at the moment is that this money comes in from the various trust accounts all around the state and it gets into the combined trust account and the interest on it becomes the statutory interest account, and five eighths of that goes to the Legal Services Commission, which last year meant that it went from $2.946 million in 2006 to $4.336 million in 2007, a 47 per cent increase. So there is a considerable amount of money that is going through to the Legal Services Commission. As I said, the other three-eighths goes to the guarantee fund.

As I said, we have drafted an amendment but we have not decided to file it in this house because we want to think about it and whether there is a better way to do it. Clause 238(6) of the bill puts a cap on the amount that can be held in the guarantee fund. This guarantee fund is exactly the fund that we need to back up against defalcations by anyone who nicks off with trust money,

basically. Yet, the act at the moment puts a cap on that, and the cap is this: the maximum amount in the guarantee fund is essentially $7,500 per practitioner in the state. That is exactly what applies at the moment. I have checked the Legal Practitioners Act, or whatever the 1981 act was called, as against clause 238(6) of the current bill, and it is exactly the same in its wording. It states:

> If on 30 June in any year the amount of the guarantee fund...exceeds an amount calculated by multiplying $7,500 by the number of local legal practitioners on that date, the society must hold the excess in the statutory interest account, to be paid or applied by the society to the Legal Services Commission, or for any purpose approved by the Attorney-General and the society.

That strikes me as an unnecessary limitation on the amount held in the guarantee fund, particularly when, in light of the other amendments we are proposing to introduce, people are worried that there might be such a run on the guarantee fund that it would run out of funds. So, as I said, there is no apparent reason to me why that fund is capped in the way it is. There is a separate cap that I will talk about later, which is the cap on the payments out, and that is another area we will try to correct, but the cap on what is actually in the guarantee fund strikes me as an unnecessarily restrictive provision and one that we will probably seek to address.

Before I get onto what then happens with the guarantee fund, I will cover in order in the legislation a couple of the other things, that is, the specific requirements for costs disclosure and the adjudication of costs disputes. Essentially, a lot of these things were already provisions which practitioners generally obeyed and which were covered often in professional conduct rules and have now been brought into the legislation. Essentially, unless you are classified as what is called a sophisticated client, any fee that is likely to be over $1,500 for work performed by a solicitor will mean that that solicitor has to, in writing, either before taking the engagement or as soon as practical after taking the engagement, provide a whole series of written statements as to the likely costs and various aspects about costs that are often the subject of disputes. Again, I make no complaint about it: I am just interested that it is now put into the legislation.

One of the other things which I was quite curious about is what is now called uplift fees. A lot of people assume, because they watch a lot of American television, that we have contingency fees in legal practice. That is, we take on a case on the basis of a deal with the plaintiffs that, if we win the case for them, we will get half of the outcome and that we will not charge them anything if we do not win. Indeed, some firms around the place advertise 'no win, no fee' and so on. In fact, it has never been lawful in this state to have a contingency fee agreement in the sense of taking a percentage of the outcome.

There has been what was called a contingency fee agreement—and I think the actual format was in the back of the professional conduct rules—but it was restricted to a situation where you could agree to take on a case on the basis that you would not charge costs unless you were successful and, if you were successful, the person you acted for would pay a fee which could be up to double the Supreme Court rate. I did one of my last cases on a contingency fee basis because I had a lady who had a significant problem, who could not afford to pay me. I took it on and I think I charged her 1½ times the Supreme Court rate. These things were not used very often because so many of the firms downtown were already charging as their regular fee double the Supreme Court rate, so there was no benefit to them in taking on a contingency fee on the basis that they would charge double the Supreme Court rate if they won because that was already their rate of charge anyway.

The interesting thing about the way these uplift fees (as they are now called) are going to work is that, whilst the legislation states that there are no such things as contingency fees, as I read it, uplift fees essentially replace what we used to call a contingency fee in this state but they provide that you can charge additional legal costs on successful completion and those costs can be up to 25 per cent more than what you would otherwise have charged.

For someone like me who charged at the recommended rate—and it was a bit like a scheduled fee or the Medicare rebate fee for a medical practitioner—that would restrict me to charging 1¼ times the rate set by the Supreme Court. However, for a firm, for instance, that already charges four times the rate of the Supreme Court, they could charge five times the rate of the Supreme Court. So, in fact, the uplift fees strike me as being more dangerous for potential claimants who do not have the money to pursue a claim than would have been the case had we stuck to the old system.

Professional indemnity insurance is relatively self-explanatory. As it says, it is an insurance policy. A practitioner cannot practise in this state without holding professional indemnity insurance

and it takes up only one clause of the bill. We now move on to the most important part of this bill, which is the Legal Practitioners Guarantee Fund at clauses 299 to 349. There is a mixture in here of core non-uniform and core uniform, and at the very end a few clauses reflect largely the existing 1981 act. But the key area where we think that there is need for reform is this aspect. I do not know how many members of this house are aware of the case of Magarey Farlam, but that was a reasonably prominent law firm in Adelaide with some terrific practitioners but they had a financial controller who, over a period of years, stole some $4.5 million from the funds held in that firm's trust account.

For years now the innocent clients of that firm have been trying to get back their money. I would have understood, as a practitioner, paying my money down to the combined trust account and knowing that a guarantee fund was set up that they would automatically be entitled to their money. There they were, innocent clients; who had money in trust and that money (totalling $4.5 million over a period of years) was taken by someone employed by the firm. That person is obviously being prosecuted but I would have thought that, given the existence of a guarantee fund, they would be paid out. However, they have faced all sorts of problems and significant legal costs over a period of years. I am aware of some people who have expended already over $100,000 in pursuing legal claims to get back their own money that was stolen from a solicitor's trust account.

That, to me, is unjust. I cannot blame the Law Society because the Law Society, which runs the guarantee fund, states that the act provides that it is the fund of last resort, and that is exactly what it does. It basically says, 'To you, poor innocent person who has had your $1 million stolen by someone taking it out of a solicitor's trust account (be that a solicitor or a financial controller or anyone else), we recognise that you have had your money taken, but there are several impediments. The first impediment is that we are not going to be the fund of first resort but the fund of last resort.

So, we are going to require you to sue everyone else in order to then come to us if you are unsuccessful.' Of course, it is a costly, expensive, time-consuming and highly stressful exercise for people who have already often lost a large part of their asset base because of the theft in the first place. When you understand a bit about some of the mechanisms used by the person who is alleged to have taken this money, it is clear that any action like that is going to involve an action against the partners (which they probably would resist), and an action perhaps by them including their auditors thereby joining the auditors, bankers and insurers into the process. Very quickly, as it was bound to, it became a massive quagmire of legal argument.

Indeed, there have even been cases on the issue of what happens to the money that is left in the trust account. Once it is in a solicitor's trust account, is it all intermingled and should everyone who holds money in that trust account get a pro rata share of what is left or should the people whose money was not actually taken or tampered with by this miscreant be allowed to get their money out and go on their merry way while the others seek redress through other channels? There have even been cases that have gone to the Supreme Court and then an argument with the Attorney-General about whether they were entitled to recover their costs. It has gone all the way to the full court and, happily, the full court has said, ' Yes, these people are entitled to recover their costs.'

In my view, this makes it a really untenable position for the innocent people who had every reason to believe that a trust account would be safe—and the name implies that it is being placed on trust with a solicitor who supposedly is subject to all sorts of rules, regulations and controls to ensure that they do the right thing. One would think that it would be the one place in the world that one's money would be safe, yet these people have faced massive costs in trying to get their money back.

So, we propose to address this. In particular, we would say that this guarantee fund—which, as I said, we do not necessarily think should be capped as to how much is in it the way it is currently—should be the fund of first resort. In our view, if you lose money because the solicitor nicked off with the money that was in your trust account, then you should be able to go to the guarantee fund and get it back, and the guarantee fund can chase up whoever it says is liable for it. It is not reasonable to make the people who have innocently had their money stolen to do the chasing. In our view, that is precisely what the guarantee fund is for.

The first change that we will seek to make is to make it the fund of first resort and then subrogate the guarantee fund for the rights of the people whom it has paid out. So, clearly, if it pays out $100,000, it has the right to go and chase whoever it says should be liable for it. We also want

to make it absolutely clear that the guarantee fund should pay the reasonable party/party costs of those who have suffered because of the default. I do not want to go into a lengthy dissertation about what is meant by party/party costs but, essentially, what you recover from the other side will generally be based on what the Supreme Court recommended rate would be for what is happening, and that is essentially what would normally be approved as costs in this or in other circumstances.

So, we believe that they should get their costs. Further, we believe that payments from this fund should not be capped at 5 per cent as they are at present. My understanding is that the fund currently has about $20 million to $21 million in it. The provisions in the existing legislation and indeed in the bill which say that it is to be capped at 5 per cent mean that the limit on a claim is going to be $1 million; indeed, it will be the limit on the combined total of all the claims in relation to this whole Magarey Farlam quagmire.

Our view is that everyone should be entitled to get their money back, in particular, the Magarey Farlam people, and we will address that with a special provision in the transition provisions in the schedule to the bill. As a commonsense, reasonable approach they should be entitled to get their money back, to get it straight away from the guarantee fund, to get the costs which should therefore be limited if they get their money straight away, and they should not have their overall entitlement stopped in that way.

Recognising that there is the potential for another Magarey Farlam, theoretically, proper work should be done by the auditors, and the Law Society internal investigators should not waste their time with little practitioners like me who have never had 5¢ missing but actually go after the people who really need to be checked on and looked at fairly closely. If investigators did the job they should have been doing all along—instead of wasting time with little practices like mine—in my view, we would have much less likelihood of Magarey Farlam occurring again. Nevertheless, we recognise that there is potential for that to occur, so we propose that the limit for a claim be put at 30 per cent. That is one of several mechanisms to put the limit of the claims at 30 per cent of the amount held in the guarantee fund. We also need to bear in mind that I had already referred to the issue of how much is in the guarantee fund. It seems to me to have been artificially kept lower than it needs to be, and there is no reason why that guarantee fund should not be quite a bit higher.

That said, there seems to be a big question mark over clause 331. When I looked at clause 331 it did not appear to classify—according to the documents sent to me—as core uniform, core non-uniform, non-core, or coming out of the existing act. Clause 331 provides that, if necessary (if the guarantee fund is running out of money), we can make a call on practitioners. This gives the Attorney-General some discretion as to whether he exempts certain groups of practitioners. Basically, he can make a call on all practitioners. I do not know about anyone else, but that seems to me to be unreasonable. I do not know why it would be the case that an honest, hardworking practitioner who has done nothing wrong should have to pay the penalty for a fellow practitioner who has done something very wrong and taken money from the trust account to which he was not entitled. I think that should be very much a last resort.

It seems to me that we have several other things that we can do. We can stop putting an artificial limit on how much is in the guarantee fund; we can put a 30 per cent cap on the amount of any one claim against the guarantee fund so that there is the ability to retain at any time 70 per cent of the fund; and we could also, of course, readjust the diversion. As I said, at the moment five-eighths of the statutory interest account goes to the Legal Services Commission and three-eighths to the guarantee fund.

Whilst I understand the reasons for not paying the interest to the client—who notionally would be entitled to it—it still seems to me that most of them would be horrified if they thought that the money that they were not getting in interest was not going to legal education or to the guarantee fund to ensure that everyone's money held in a solicitor's trust account was safe but was in fact paying, in part, for the existence of the Legal Services Commission; that is, paying the legal costs of people who do not go to private solicitors. I think that most people in that situation would be horrified. It seems that, philosophically, rather than calling on the practitioners throughout the state, who have not done anything wrong, to make a contribution themselves, it would be smarter to re-divert that money instead of sending it to the Legal Services Commission, and send it to the guarantee fund, if there was going to be some sort of a shortfall. I think that there are some other mechanisms that should be seriously looked at, and we will certainly move to try to address some of these issues.

In terms of the information that I have, we received advice during the briefing that the practitioners in New Zealand were in fact asked to contribute $10,000 each. I know, as a sole practitioner who ran a very small practice and who desperately tried not to overcharge my clients and to practise with the way I thought the profession should be practised, that $10,000 at certain points in my running of that practice would have broken it. I would have ended up going out of business because of a call made on me, which I think would be totally unnecessary. There are other mechanisms that we can use and that we should use in order to deal with this particular issue. I will deal more with that tomorrow when we deal with the proposed amendments. I will quickly finish my comments in relation to the rest of the bill.

There are only a few sections to go, and they deal with complaints and discipline. Essentially, that section appeared to be a combination of the existing Legal Practitioners Act and the provisions of what is called the 'model code'; so there were core uniform and core non-uniform provisions. Essentially, it continues in existence—although it does not use that wording—the Legal Practitioners Conduct Board, and it is empowered to investigate issues where it suspects that there could have been unprofessional conduct, or the more serious professional misconduct.

Those investigations can be initiated by way of a complaint from some person who is disgruntled with a practitioner, or the board can initiate the investigation of its own motion if it suspects that there has been unprofessional conduct or professional misconduct. If the board is satisfied that there has been professional misconduct it is under an obligation to immediately report that to the Attorney-General and to the Law Society. If necessary, if the professional misconduct involves behaviour of the kind which would be a breach of the law, the board should also report it to the relevant law enforcement authorities.

The board has power to reprimand practitioners, to impose conditions on practising certificates, and it can even order a practitioner to make a specified payment. Interestingly, there is a specific provision that requires that complaints of overcharging must be investigated unless they are frivolous or vexatious. I am well aware that complaints about overcharging are the most common basis for complaints. They are by no means the only complaints, but the area of complaints about costs and charges lead by a large majority to the most complaints to the Legal Practitioners Conduct Board.

What interested me about the provision that the board must investigate, unless there is the idea that the complaint is frivolous or vexatious, is that it appears to apply only to the complaints about overcharging, at least in my reading of it. I would like to see it actually apply to all complaints. I had a complaint lodged against me which was completely frivolous and vexatious. The complaint was made by two people who were on the other side of a matter I was dealing with. I was acting for my client, and these two people were on the other side.

One of them made a complaint which distressed me considerably, but I sat down and wrote a very calm and considered response to the complaint. Just as the complaint was dealt with and disposed of, and I got a letter saying, 'We've investigated that complaint, and we've found that there is no basis for it, and we are closing our file,' the very next day I got another letter from the partner of the person whose complaint had just been dealt with.

It was outrageously vexatious and frivolous, to the point where this person alleged that I had, on an occasion two years earlier, deliberately driven my car at this person forcing them to jump off the road and into the bushes and that had they not done so they would have been killed. They knew it was me because they saw me, they recognised my car, they saw me in it; they took the number and they checked with the police and it was mine. The fact was that this all occurred two years earlier—allegedly. Of course, it never occurred at all, but the allegation was that it had occurred two years earlier, and notwithstanding that it was clearly vexatious and frivolous and that it was a huge imposition on a sole practitioner to have to sit down and calmly write a response to what were really quite defamatory allegations.

Notwithstanding all of that the Legal Practitioners Conduct Board must investigate. That strikes me as just being unreasonable, especially given the circumstances where this person was about to go to trial. It was clearly a ploy in relation to trying to disrupt our preparation for the trial, rather than anything of actual substance. There was not any substance to the complaint. I would really like to explore (and will do so tomorrow) the idea that the discretion to investigate should not be limited to simply vexatious or frivolous complaints about overcharging, but perhaps should be limited to circumstances where the board decides that the complaint itself is one that is vexatious or frivolous.

In accordance with what happens now, the bill then deals with the provisions for conciliation of complaints and for proceedings before the Legal Practitioners Disciplinary Tribunal. Interestingly, they have to be within five years. If there is a hearing, it is subject to the rules of evidence, and the outcome is that the tribunal can make such orders as it sees necessary. The proceedings are protected by absolute privilege and costs are payable in relation to the hearing. By that, I assume that, if the board proceeded against a practitioner and the practitioner was then absolved of any responsibility for whatever it was, they would be able to recover the costs of having to engage representation because we all know that only a fool has himself for a lawyer. They have all that and then they have the appeal to the Supreme Court against the decision.

The only new part that I saw in that was two things will now happen concerning disciplinary action. It has always been publicised, in the sense that there was an annual report by the Legal Practitioners Conduct Board, and so you could read through it and see who had done what—and if someone was struck off, it was certainly in there. First, there will now be a register. The disciplinary things will be put on the internet so that anyone can look up any details of outcomes resulting in disciplinary action. There is also provision that, if a practitioner's view is that their behaviour was caused by mental illness, the effects of drugs or whatever, they can, if they wish, ask to have an explanation such as that put on to the internet as well.

Secondly, there are also provisions in this new regime for sharing information between jurisdictions. Obviously that is sensible and necessary if you are to have a national profession in that you cannot have people who are struck off here but go with their law degree to the next state and become registered without the next state ever knowing that they have been struck off for misbehaviour. The only other things in this bill are the external intervention, which essentially deals with the appointment of managers and receivers, if practices fail, which is just like any other small business or other business.

There is reference to the regulatory bodies and funding, which continue the existence of the Law Society—the Council of the Law Society, the litigation assistance fund (which is run under the Law Society), the Legal Practitioners Education and Admission Council, the conduct board (about which I have just been speaking) and the disciplinary tribunal. Finally, chapter 8 deals with public notaries and is all fairly standard stuff. Then there are the miscellaneous provisions. I note a couple of those: first, if a law practice contravenes this act, each principal of the practice is deemed to have contravened it, unless he can prove that the contravention was without his knowledge; and, secondly, the provision which allows the local regulatory authority such as the Law Society to disclose information to another local or interstate regulatory authority.

Apart from the transitional provisions and the repeal of the existing act, that concludes my comments on this second reading. I would normally conclude by saying that I commend this bill to the house. Whilst I expect it to be passed, I repeat that I am very sad to see this bill going through. We are supporting it and I recognise the need for national legal practice, but I do not welcome the new world of Woolworths law and Coles law (sorry for the salad reference again), but it will happen and it will mean that, regardless of my political fortunes, I will probably never return to the practice of the law in this or any other state.

Debate adjourned on motion of Mrs Geraghty.

At 17:58 the house adjourned until Wednesday 17 October 2007 at 11:00.