LEGISLATIVE COUNCIL

Thursday 1 June 2006

The PRESIDENT (Hon. R.K. Sneath) took the chair at 2.18 p.m. and read prayers.

MEMBERS, REGISTER OF INTERESTS

The PRESIDENT: Pursuant to section 5(4) of the Members of Parliament (Register of Interests) Act, I lay upon the table the register statements for June 2006 prepared from the primary returns of new members of the Legislative Council.

Ordered to be printed.

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Emergency Services (Hon. C. Zollo)—

Reports, 2005—
Department of Education and Children's Services
Senior Secondary Assessment Board of South Australia.

MENTAL HEALTH

The Hon. G.E. GAGO (Minister for Mental Health and Substance Abuse): I seek leave to make a ministerial statement.

Leave granted.

The Hon. G.E. GAGO: The government strongly supports the call by mental health experts across the world for a reduction in the stigma attached to people with mental illness in our community. The stigma is created by language and attitude, by the portrayal of people with mental illness as always dangerous, by the use of derogatory descriptions of mental illness, by using phrases to demean people which suggests that they have a mental illness, and by treating the personal details of people with mental illness as public property.

Our society is bombarded with negative images of people with a mental illness. Overwhelmingly, people with a mental illness are presented as dangerous, violent and unpredictable individuals. These inaccurate and unfair portrayals shape the public's perception towards those who suffer from mental disorders as people to be feared and avoided. In fact, the vast majority of people with a mental illness are not in any way violent or dangerous. This stigma has very tragic consequences. Many people with a mental illness do not seek treatment because they are ashamed. They also experience discrimination in their communities and in their workplaces. Nationally, many people are working hard to reduce stigma, among them Beyond Blue leaders such as Jeff Kennett and Garry MacDonald, and the federal member of parliament Andrew Southcott, who chairs the parliamentary Friends of Schizophrenia.

To support the reduction in public stigma, SANE Australia runs a web-based program called StigmaWatch. Stigma Watch promotes 'accurate, balanced and sensitive depictions of mental illness and suicide—exposing cases of mental stigma to public scrutiny'. StigmaWatch accepts reports from the public and, once a stigmatising report is verified, SANE Australia contacts the person or organisation responsible for the stigma with an explanation of the stress this behaviour can cause. SANE Australia also publishes the incident on its web site, including what it has explained to the offending party. SANE Australia's executive officer has indicated that the organisation is interested in comments made both in the media and on public record. I wish to announce that, as Minister for Mental Health and Substance Abuse, my policy will be to report to SANE Australia comments made on the public record that stigmatise mental health.

Today, the opposition's spokesperson for mental health referred on radio to mental health consumers at Glenside as 'going off their tree'. Yesterday, in parliament, she again named a mental health patient. I will be asking SANE Australia to take up the Hon. Ms Lensink's stigmatising actions and to name and shame her in StigmaWatch on the internet. This sort of insensitive behaviour only adds to the stigmatisation of mental health issues. As the opposition spokesperson, she must be held to a higher standard. In this place we can discuss issues about the way in which the mental system operates, but I will not sanction the misuse and abuse of vulnerable people for cheap political point scoring.

I have respectfully asked the shadow spokesperson for mental health for her support in de-stigmatising mental illness by not using people's circumstances and their name in a political way. As I have said before, this government's approach is about reaffirming the rights, dignity and civil liberties of mental health consumers and their carers while balancing the broader needs of the community, particularly in relation to safety and security.

The Hon. J.M.A. LENSINK: I seek leave to make a personal explanation.

Leave granted.

The Hon. J.M.A. LENSINK: In relation to two of the matters raised; first, the comments I made on ABC Radio in which I used the language 'out of his or her tree' (or words to that effect), I have withdrawn those comments in interviews to the ABC and also in speaking personally to Geoff Harris of the Mental Health Coalition. I should have used the word 'psychosis'. Secondly, in relation to using the names of people within this chamber, I report that the individual who was named had their name published at the time that they were charged with murder some 10 years ago, and public details are also available through the court system.

QUESTION TIME

ENVIRONMENT AND HERITAGE DEPARTMENT

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Environment and Conservation a question about her 'no loss strategy'.

Leave granted.

The Hon. D.W. RIDGWAY: Last week, on Monday 22 May, the minister released a press release saying that there was still time to comment on the 'no loss strategy'. The minister said that members of the public still had 10 days to comment on the state government's draft strategy aimed at preventing further loss to South Australia's native species. On the same day, the Treasurer announced significant loss to other South Australians, that being the loss of more than 300 public servants, and the cost of $24 million to cut the excess of public servants from the public sector. My questions are:

1. What is the minister's 'no loss strategy' for the staff in her department?

2. How many public servants within the Department for Environment and Heritage have been identified as potential recipients of TVSPs?

3. Will the minister guarantee that all existing and future programs carried out by her department will be continued?

4. Will she also give the South Australian public an assurance that any shortfall in her funding and for her department will not be made up by a manipulation and increase of the natural resources management levy?

The Hon. G.E. GAGO (Minister for Environment and Conservation): These matters are largely budgetary in nature and will be dealt with through the budgetary process.

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: Any matter involving TVSPs, as the honourable member opposite would know, is a matter for Treasury and the Minister for Administrative Services and Government Enterprises.

MENTAL HEALTH

The Hon. J.M.A. LENSINK: I seek leave to make a brief explanation before asking the Minister for Mental Health and Substance Abuse a question about a mental health patient's suicide.

Leave granted.

The Hon. J.M.A. LENSINK: The opposition has received information that someone who was the subject of a detention order at the Queen Elizabeth Hospital escaped and subsequently committed suicide on 15 May this year. Will the minister inform the council whether she is aware of this and what the outcomes of any investigations have been?

The Hon. G.E. GAGO (Minister for Mental Health and Substance Abuse): I thank the honourable member for her question and I commend her for not naming the individual. I am aware of this matter, and the preliminary measures for an investigation have taken place. I have asked for a full report, both at a service level and across the service level. I am still yet to receive the last of these reports. I will make my findings according to those reports.

CROSSBOWS

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Minister for Police a question about crossbows.

Leave granted.

The Hon. R.D. LAWSON: A press release was issued by the Attorney-General today under the heading 'Crossbows become illegal from today'. The release went on to say that changes to the summary offences regulations will make it illegal for crossbows to be manufactured, sold or even possessed without lawful excuse in South Australia. It continues:

> The new law will not stop legitimate businesses who make a living selling their products to legitimate archery competitors, although they will be held responsible if they were to sell a crossbow to someone who has no lawful excuse for a crossbow.

The minister himself was on ABC Radio defending these new regulations but, clearly, was unable to explain to either Messrs Abraham and Bevan or the people who called in what was encompassed within the expression 'lawful excuse' in these regulations. For example, one caller said that his son had bought a crossbow for hunting purposes and he asked whether that was a lawful purpose. He asked the minister whether he could explain. Clearly, the minister could not explain on radio today. Ausbow Industries operates in Goolwa and manufactures crossbows in South Australia. Last year, when these new regulations were mooted with a press release similar to that issued by the Attorney-General, Ausbow Industries wrote to the Attorney-General. The letter states:

> Ausbow Industries is an importer, distributor, retailer, manufacturer and exporter of crossbows. We operate a lawful business with full concurrence of the SA Police. We are also keen to see sensible controls on the sale and use of crossbows. We are concerned as to what constitutes 'lawful excuse'.

The company sought information from the Attorney-General on that point. The letter continues:

> Ausbow Industries is particularly concerned at the statement in the news release which states inter alia that crossbow dealers can be held responsible if they were to sell a crossbow to some 'dodgy character' who clearly has no legitimate use for the crossbow. We suggest that this notion is totally unacceptable and unenforceable at law. Dealers have no means of checking police records, and prospective criminal customers are not going to state their intentions to a dealer. This would be akin to holding car dealers responsible for traffic injuries and is clearly a nonsense. Dealers need to be given some more practical methods to determine the bona fides of a customer.

I am advised that Ausbow Industries received no sensible response from the Attorney-General to that letter. My questions to the Minister for Police are:

1. Will the government issue further guidelines to crossbow owners in order to indicate what in the government's view is a lawful excuse for the possession of a crossbow?

2. Does the minister accept that issuing a press release which states 'crossbows become illegal from today' is designed to create the impression that crossbows are not permitted items in South Australia and will discourage people with a legitimate interest in crossbows from buying or keeping them?

3. Will the minister indicate what are legitimate businesses and what are illegitimate businesses for the purposes of this particular press release?

4. What are legitimate archery competitions and what are not legitimate competitions?

5. Has the government issued information to Archery SA and archery clubs in South Australia about what it regards as the appropriate use of crossbows?

6. Will the government provide more information to the crossbow community than the hyperbole in today's press release discloses?

The Hon. P. HOLLOWAY (Minister for Police): In relation to providing more information to archery groups, that is the responsibility of the Attorney-General, and I will put that matter to him. I am not sure exactly what information has been provided currently, but the suggestion of providing information is reasonable. I will put that to the Attorney-General for his consideration. I should add that what has happened under the regulations is that crossbows were covered previously by the offensive weapon category, so one would not expect a person to be carrying a crossbow in a public place, such as Hindley Street or a nightclub. One would expect that, if someone was doing so, they would have been arrested for carrying an offensive weapon. As a result of this change, crossbows will be classified as a dangerous article, which trebles the penalty for having one of these

weapons in one's possession without lawful excuse to, I think, a $7 500 maximum fine or 18 months' imprisonment.

The honourable member in his question referred to a South Australian manufacturer of crossbows. It is worth pointing out that in 2003 there was an incident at a school in New South Wales where a 16-year-old not only threw a Molotov cocktail but apparently fired a sharpened bolt from a crossbow at his former girlfriend. As a result, the then New South Wales premier called for action nationally to deal with this problem. There were suggestions at the time that this young person had bought the crossbow on the internet from a South Australian manufacturer. I am not certain whether that was ever finally established, but, nonetheless, the fact that it was raised meant that it was important that the government investigate this issue. As a result, crossbows have been upgraded from being an offensive weapon to being a dangerous article.

If one is a member of an archery club, one has a lawful excuse to carry a crossbow. The onus, as for other dangerous articles, is really on those people who sell them or provide them to people who may not have a lawful excuse for having them, which would be an offence. The onus is on the individuals in those cases to make the determination for themselves that they are not providing these weapons to someone who does not have a lawful excuse. It is my understanding that that has been common practice with other dangerous articles, and the lawful excuse requirement is common in law.

As I have indicated in the press, now that a series of governments has taken a tougher stand and attempted to remove dangerous firearms from the community to try to restrict access by people with no lawful excuse for having such firearms, so we must also ensure that there are no loopholes or potential loopholes that would allow other weapons that are almost as dangerous, if not as dangerous, to be in general use. The government's actions in upgrading the penalties for having these dangerous articles—the trebling of the penalty and the categorisation of these weapons as dangerous articles—is very much in the public interest and consistent with the action the Rann government has taken to make South Australia a safer community.

The Hon. R.D. LAWSON: Does the minister stand by his advice on radio to the father of the crossbow owner today that the young man owning the crossbow should obtain his own legal advice as to what was a lawful excuse for having the crossbow?

The PRESIDENT: The minister can answer if he wishes, but that certainly did not result from the answer.

The Hon. P. HOLLOWAY: It is not up to me. Even if I were the Attorney-General, it still would not be up to me to provide legal advice to members of the public. I cannot consider what hypothetical grounds this individual might have. In that interview, the person concerned was apparently not a member of an archery club, although he had considered joining one. My advice to that person would be that he should hand that weapon into police. If the person believes that he had a lawful excuse, my advice was that he should check with a lawyer as to whether that was likely to prevail. I would have thought that that was sensible advice to give someone. It is certainly not the role of any member of parliament, I believe, to provide legal advice to constituents.

The Hon. J.S.L. DAWKINS: As a supplementary question, will the minister indicate whether the archery clubs to which he refers have to be affiliated with the national archery association or federation?

The Hon. P. HOLLOWAY: The fact is that the law states that these are dangerous articles; therefore, persons should not have them unless they have a lawful excuse. What I have suggested is that being a member of an archery club would provide one with a lawful excuse. I think that is fairly straightforward. There may be other examples, but it is really up to the people concerned to make that call.

CYCLING NETWORK

The Hon. I.K. HUNTER: I seek leave to make a brief explanation before asking the Minister for Road Safety a question about the Adelaide cycling network.

Leave granted.

The Hon. I.K. HUNTER: There is a vast range of cyclists in South Australia, from the serious lycra-wearing types trying to emulate the feats of Stuart O'Grady to family groups and students going for leisurely rides on weekends, and there are those like me who used to cycle and gave it up—in my case, when I noticed that lycra was no longer as flattering to my athletic figure as it once was.

The Hon. J. Gazzola: Opinion!

The Hon. I.K. HUNTER: I will withdraw that comment.

An honourable member: You are selling yourself short.

The Hon. I.K. HUNTER: Thank you. What does this government do to assist cyclists, and those who may possibly be enticed back to cycling, to find out where to go for a safe and enjoyable bicycle ride?

The Hon. CARMEL ZOLLO (Minister for Road Safety): I would have thought that the honourable member who asks the question was the lycra type, and I am sure that, in his day, he cut a dashing figure. I thank him for his most important question. This government is committed to both increasing the amount of cycling and improving cycling safety in South Australia. In addition to working with councils to improve the cycling network by yearly increasing the length of bicycle lanes and off-road paths to ride on, the government makes available online the Bike Direct series of maps.

The Bike Direct maps show a network of 2 200 kilometres of bicycle routes made up of arterial roads, local roads, and off-road shared paths that have been developed to encourage cycling. The routes provide a variety of options for the wide range of cyclists with their different needs and abilities. The maps cover the bicycle network from Gawler in the north to Willunga in the south. The Bike Direct network was initially formatted in the mid 1990s, and up until 2005 the department provided free sets of maps to cyclists in order for them to navigate their trips. In October last year, the maps became web-based and, as a result, the series of 13 maps can be easily and readily updated to keep abreast of all the improvements being made to the bicycle network. The maps are regularly improved as Adelaide's councils and the Department for Transport, Energy and Infrastructure complete new facilities.

Aerial photography is also used to help highlight the location of off-road paths. New features include enhanced colour-coded land use, five-metre contour lines, public toilet locations, and radius distance from Adelaide's central business district. The maps were most recently updated in May this year to include new bicycle lanes on Black Road, Magill Road, Prospect Road, and O.G. Road, and new paths in Adelaide, Henley Beach, Port Adelaide, and Marino. Through the Office of Cycling and Walking and Transport

Services, Metropolitan Region, and in conjunction with individual councils, the department seeks to continually improve the Bike Direct network to increase its connectivity and safety.

This is achieved through further investment in the network of the Arterial Road Bicycle Facilities Improvement Program, the state's Black Spot Cycling Projects Program and the State Bicycle Fund. It is interesting to note that more bicycles than cars were sold in Australia last year, and this has been occurring for the past five years or so. By having the Bike Direct maps on line they are accessible to a much wider audience and, as a result, South Australia's cycling enthusiasts can plan their cycling trips on bike tracks that have been tried and tested, or find their own favourite places to ride.

The Hon. M.C. PARNELL: As a supplementary question: do the revised Bike Direct cycling maps to which the minister refers identify the location of cycling black spots and, if they do not, will she undertake a safety audit of bicycle black spots in South Australia?

The Hon. CARMEL ZOLLO: I will seek some advice from the department and bring back a response for the honourable member.

WATER SUPPLY, APY LANDS

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Emergency Services, representing the Minister for Aboriginal Affairs and Reconciliation, a question about the provision of water supplies for people on the Anangu Pitjantjatjara Yankunytjatjara Lands.

Leave granted.

The Hon. SANDRA KANCK: The state government recently announced $500 000 worth of funding for improving water supplies for the people of the APY lands. What was not clear from the announcement was whether this $500 000 was in addition to the $590 000 allocated in 2004-05 for the improvement of water supplies on the lands. Is the $500 000 recently announced in addition to the $590 000 allocated in 2004-05 for the improvement of water supplies on the APY lands; and, if so, has this money been reallocated from another project on the lands and, if so, which project has had its money diminished?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I will refer the honourable member's questions to the Minister for Aboriginal Affairs and Reconciliation in the other place and bring back a response.

SOUTH AUSTRALIAN MINERALS AND PETROLEUM EXPLORATION GROUP

The Hon. J. GAZZOLA: I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about the South Australian Minerals and Petroleum Exploration Group (SAMPEG).

Leave granted.

The Hon. J. GAZZOLA: SAMPEG is a key element of the Rann government's highly successful Plan for Accelerating Exploration (PACE) initiative, and the group has played a crucial role in helping to lift mineral and petroleum exploration in this state to record levels. With the departure of SAMPEG's Chairman, Robert Champion de Crespigny, will the minister provide details of the new chair of the group?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): I thank the honourable member for his question and his recognition of the record-breaking levels of exploration activity that are currently under way in South Australia. I can announce today that Dr Ian Gould is the new Chair of the South Australian Minerals and Petroleum Exploration Group. I am delighted that he has accepted the government's invitation to take up this important role as he will bring vast experience and knowledge to the post. I am also delighted to announce that, while he will not be residing in Adelaide, Mr Robert Champion de Crespigny has agreed to remain a member of SAMPEG. I am sure that he will continue to contribute to that body in a significant way.

Dr Gould has a PhD in geology, and he has extensive industry experience, including that as Managing Director of AM&S, Europe. He was the Managing Director of Comalco Mineral Products, Group Executive for CRA Exploration and Group Managing Director of Normandy Mining Limited. Also, he serves on the South Australian Resources Industry Development Board. SAMPEG plays a key role within the government's highly successful Plan for Accelerating Exploration—the $22.5 million initiative aimed at increasing the value of exploration in South Australia to $100 million a year, a level which we are right on the doorstep of reaching.

The key PACE theme is the promotion of our state's mineral potential at the highest level possible both nationally and internationally. This task is being achieved through the ongoing activities of the highly experienced and influential SAMPEG members who provide their services on a purely voluntary basis. During the first two years of the PACE scheme, the former Chair, Mr Robert Champion de Crespigny, has largely guided SAMPEG's activities. The group's activities have included accompanying PIRSA executives to targeted company meetings to attract new explorers to South Australia, presentations and third-party endorsements of PACE, and the provision of input into the government into the future direction of the resources sector in South Australia. The record increase in exploration expenditure in South Australia can be attributed in large part to the work of SAMPEG in promoting the prospectivity of the state.

Since the inception of PACE and SAMPEG in early 2004, annual exploration expenditure in South Australia has increased from $37 million in 2003 to $99.4 million in 2005, with our share of national expenditure having risen from 5.4 per cent to 8.8 per cent over the same period. The Fraser Institute's 2005-06 annual survey of mining companies ranks South Australia sixth amongst 64 jurisdictions on its Mineral Potential Index, which is further testament to the work of SAMPEG raising the profile of South Australia's mineral wealth. In the light of Mr Champion de Crespigny's recent move to London, it has been necessary to appoint a SAMPEG chair to provide continued guidance and leadership. Dr Gould's appointment will take immediate effect. I am confident that Dr Gould will bring to SAMPEG the ongoing drive required to lead the group throughout the current resources boom and beyond.

MASLIN BEACH

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Police a question about unsavoury behaviour at the nudist beach at Maslins.

Leave granted.

The Hon. T.J. STEPHENS: Recently, some Maslins Beach residents have been complaining about the incidence of unsavoury behaviour occurring in the car parks and on the beach itself. Residents are worried about indecent, lewd or sexual behaviour and say that the area is attracting sexual predators making it unsafe for families. Many of these residents have acknowledged that a section of the beach has been declared a nudist area for many years, but they point out that with the building of new housing developments families are living much closer to the area, and this is of great concern to them. Aldinga police are reportedly monitoring the southern car park for inappropriate behaviour but generally do not monitor the beach. My questions are:

1. Is the minister satisfied that sufficient patrols are being conducted at the nudist section of Maslins Beach to deter those who are intending to partake in unsavoury behaviour?

2. Is the fact that the police have indicated they are not patrolling the beach itself, only the southern car park area, effectively saying that it is okay for these unsavoury activities to be conducted along the beach?

3. Has the Minister for the Southern Suburbs made any representations to the minister on this issue?

The Hon. P. HOLLOWAY (Minister for Police): I believe I heard the Minister for the Southern Suburbs talking about this matter on radio in the past few days. I think the issue is really whether it is still appropriate to maintain Maslins Beach as an unclad beach given the development that is occurring in the area and other factors including damage from sunburn and the like. That is obviously a broader issue that goes well beyond the police portfolio, but it may well offer a solution to the problem.

In relation to unsavoury behaviour at Maslins Beach, that is really an operational matter for the Police Commissioner. I will raise the question with him and bring back a response as to exactly what activities are being undertaken there and how the Police Commissioner is seeking to address this issue.

The PRESIDENT: A very cold experience.

MENTAL HEALTH, REGIONAL INITIATIVES

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Mental Health and Substance Abuse a question about regional mental health initiatives.

Leave granted.

The Hon. CAROLINE SCHAEFER: In response to a media release of 30 September last year, my colleague the member for Flinders wrote (on that day) to the then minister for health (Hon. Lea Stevens) asking for details as to what amounts of the $5 million in additional spending which had been announced had been allocated to her electorate. Some eight months later, on 24 May, she received a reply from the Hon. Gail Gago, and the initial generic, across-the-state spending was outlined under four dot points. Included in those dot points is the creation of 10 new nurse practitioner positions, as follows:

> The nature and location of these positions is currently being determined. Similarly, a total of 12 extra workers in community health across the state will be provided.

Again, the nature and location of these positions is currently being determined, some eight months later. But most fascinating of all was the third dot point:

> Staffing the emergency departments of all major metropolitan—

metropolitan—

> hospitals with mental health liaison nurses 24 hours a day, seven days a week. This will benefit country people with a mental illness who present to a metropolitan hospital emergency department by providing them with improved access to high quality and timely specialist mental health responses.

My questions are: given that these people live in regional areas, can the minister explain her claim that they will benefit from improved access to metropolitan hospital emergency services just because these services will remain open longer; and why, eight months after a press announcement, can she provide no time lines and no positions with regard to the other announced initiatives?

The Hon. G.E. GAGO (Minister for Mental Health and Substance Abuse): I thank the honourable member for her questions. I believe that this government has a very proud record in terms of the services it has been able to provide to regional South Australia, particularly given the extreme challenges that it was faced with. It is not just here in South Australia but all around Australia and, in fact, internationally that there are shortages of health professional staff, including mental health staff.

We have worked very diligently to provide extra services to regional South Australia. I might add that, particularly in relation to recruitment and retention of health care staff, I recall that when I was secretary of the Australian Nursing Federation I attended a delegation with two health ministers under previous Liberal governments: Dr Michael Armitage and Dean Brown. I remember on a number of occasions—

Members interjecting:

The Hon. G.E. GAGO: The truth hurts, Mr President. I recall in a number of these delegations raising the issue of recruitment and retention of mental health staff. Basically, for eight years the Liberal government sat on its hands and did nothing about filling those positions. Regarding some of the specific questions asked in relation to our 24-hour emergency services, this not only involves walk-in services but also telephone support services, and I do believe that country people are able to avail themselves of those services.

I will briefly go through some of the things that we are providing to regional South Australia. Both the Rural and Remote Mental Health Services are based at Glenside and continue to be based there. They are support services that rural South Australians have indicated they are very keen to have continue there. They hold those services in very high esteem and believe them to be a really valuable service for regional South Australia. They are well supported by our country South Australians. We also provide specialist mental health services—

Members interjecting:

The PRESIDENT: You might want to listen to the answer.

The Hon. G.E. GAGO: Obviously, we also provide specialist Aboriginal mental health services; we have visiting psychiatrists who visit across country South Australia; we have mental health promotion programs across regional South Australia to address stigma and increased awareness and to encourage early recognition; we have mental health in-patient pilots to enable local hospitals to better cater for mental health in-patients; we have a suicide prevention initiative, which is funded by the Social Inclusion Board, to increase the focus on suicide prevention in country South Australia, with a particular focus on Aboriginal communities, especially young Aboriginal males; and we have heard about the child and adolescent mental health program, which was allocated $1.9 million over four years in the 2005-06 budget, to be used

to employ additional clinicians across country regions. Also, supported accommodation places in regional South Australia have been made available for people with mental illness across country areas, in partnership with the Department for Families and Communities and also NGOs, and, of course, as well as a number of demonstration projects. In terms of rural and remote services, which I note members opposite scoffed at, they are held in very high regard by regional South Australians.

Given that I was asked a question about mental health services in regional South Australia, I advise that those services provide 23 specialist in-patient beds for country South Australians, emergency triage and liaison services that provide 24-hour expert assessment and advice to country consumers, and access to clinicians and GPs via teleconferencing and videoconferencing. This enables consumers who would have previously required transfer to metropolitan services to remain in their communities.

In relation to specialist mental health services, a specialist community-based mental health service is provided right across regional South Australia. Many larger country centres are serviced by mental health teams, which also provide visiting services to more remote areas, and I have already mentioned the visiting psychiatrists. Each year $600 000 is allocated to rural South Australia for mental health promotion to address stigma and to increase knowledge and general awareness, which is very important in relation to early recognition and prevention of mental illness. There are many other services that I could go into. In relation to the Rann Labor government's track record, we can see that far more is being done now than was ever done in the eight years of hand sitting by the previous Liberal government.

The Hon. CAROLINE SCHAEFER: I have a supplementary question arising from the answer.

An honourable member interjecting:

The Hon. CAROLINE SCHAEFER: Yes; the response. Will the minister advise the chamber how much of the $5 million allocated eight months ago has been spent?

The Hon. G.E. GAGO: I do not have the exact details of that. As I have pointed out, we have done an extremely good job in providing valuable services to country South Australia, particularly in relation to the considerable funding for those services. In respect of the details of that particular funding allocation, I am happy to bring that information back to the chamber.

LAW AND ORDER

The Hon. A.M. BRESSINGTON: I seek leave to make a brief explanation before asking the Minister for Police questions about public safety and law enforcement. I preface this explanation by indicating that there are quotes within it which may contain offensive language, and I apologise in advance if any member should take offence.

Leave granted.

The Hon. A.M. BRESSINGTON: In this place on 11 May 2006 and 30 May 2006, I brought the situation of an abusive parent at the North Haven Primary School to the attention of the Minister for Police. In his response on 30 May he equated this situation (which has persisted for 18 months) to 'neighbourhood disputes'.

To provide further clarity to the minister, I have extracted some statements from signed statutory declarations handed to me by some of the constituents affected by the behaviour of the perpetrator. First, a child aged nine years of age was told by this person, 'You are an abortion that crawled out of a bucket', and the person then spat at this child. The police were called and stated that they could not take a statement from a nine year old, even though the mother also witnessed this abuse. Secondly, the mother reported that on another occasion the following abuse was yelled at the young girl publicly, 'You are a slut lap dancer whore', and she was again threatened in front of the mother that 'she was friends with the bikies and that they would come and kill her'. Thirdly, another eight-year-old child was physically picked up and shaken by this person while being verbally abused; she was dropped and poke repeatedly in the face and chest.

Fourthly, the same child, while attempting to cross a street in front of her home, was almost run down by this person in her car. Fifthly, the home of this family was broken into while the family was in transit to Moonta. The mother rang the police and was told that, because she was not actually in the home, there was nothing they could do. Sixth, the younger child aged six at the time was taken from the playground over the road from her home by an associate of this person. The child was missing for over two hours; and, sadly, the parent stated that she did not report it to the police because, given previous police inaction, it seemed like a pointless exercise. The mother drove around the streets for two hours and located her child approximately 2.5 kms away from the home, accompanied by the associate of this person, also a known drug user and drug dealer. Lastly, the same mother was chased at high speed and attempts were made to run her off the road. This was also reported to the police.

Members may recall that, in this place on 30 May 2006, I again raised the issue of violence and abuse. The Minister for Police clearly makes reference to these situations five times in his answer, equating them to neighbourhood disputes. My questions are:

1. Is it reasonable for members of this community to expect that the police undertake a thorough investigation or at least show a police presence at this school as an indication to this person that the police are taking her behaviour seriously?

2. Does the police minister still believe that it is appropriate or safe for the victims of this behaviour to attempt to videotape this person in action as a way of gathering evidence?

3. Will the minister obtain from the police details of the protocols and criteria for police action where such allegations are made?

4. Will the minister assure us that such serious allegations will be investigated thoroughly as a matter of course?

5. Will the minister clarify what he is saying? Does the minister still believe that this ongoing situation can be considered to be 'neighbourhood disputes', especially when a death threat has been made?

The Hon. P. HOLLOWAY (Minister for Police): The honourable member has raised this matter before and, as I understood, it was an allegation that the police had not acted appropriately in relation to a particular case. As such, the matter ought to go before the Police Complaints Authority for investigation. I assume the honourable member has spoken to police officers in relation to that. If that matter is being investigated, it would be not be helpful or appropriate for me to make any further comments on it because clearly those allegations need to be investigated. I will endeavour to ensure that those processes have been put in place, but I assume from the honourable member's latter question that clearly the

police have spoken to her and the constituents as a result of her question. I will determine the status of those investigations from the Police Commissioner and bring back a response. In relation to the statutory statements, I would also assume that they have been referred to the police.

The Hon. A.M. BRESSINGTON: I have a supplementary question. Can I repeat a question that I asked in my original question?

The Hon. R.I. Lucas interjecting:

The PRESIDENT: The President will make the rulings around here, not the Hon. Mr Lucas.

The Hon. A.M. BRESSINGTON: Will the Minister for Police give a commitment that we will get details of the protocols and criteria for police action where such serious allegations as these are made? Will the minister assure us that such serious allegations will be investigated thoroughly as a matter of course?

The Hon. P. HOLLOWAY: The police have general rules of operation and codes. But, to say they have criteria for particular cases, obviously police officers have to use their discretion in relation to the urgency of the matters before them. If the honourable member wants a general description of police operating rules, I will endeavour to provide some information for her, but obviously, in any case, given that the police have a range of call-outs before them at any given time, they have to use their discretion in terms of priorities, based on the information provided to them as to the risk to the public and other relevant factors.

WASTE GRANTS

The Hon. R.P. WORTLEY: I seek leave to make a brief explanation before asking the Minister for Environment and Conservation a question about waste grants.

Leave granted.

The Hon. R.P. WORTLEY: In August 2005 a five-year strategy was released to address the growing problem of how to deal with South Australian waste. The strategy aims to ensure a healthy environment for current and future generations. In devising the strategy, it was revealed that:

- almost 65 per cent of recyclable waste destined for landfill is diverted for recycling in South Australia;
- in 2003 more than 2.1 million tonnes of waste was recycled;
- in 2003 1.1 million tonnes of waste was sent to landfill;
- about 70 to 80 per cent of waste deposited in landfill is recyclable;
- paper and cardboard make up about 25 to 30 per cent of domestic waste that ends up as landfill;
- household waste makes up to 25 per cent by weight of the waste going to landfill in South Australia.

My question is: what is being done to support the reduction of waste in South Australia?

The Hon. G.E. GAGO (Minister for Environment and Conservation): As the honourable member notes, this government has put in place many good initiatives to help address the issue of waste. Today I would like to talk about some infrastructure development initiatives. While opening the Waste Management Association Biennial Conference I was pleased to be able to announce that grants of $1.3 million have been awarded to seven companies as part of this government's strategy to reduce, reuse and recycle waste. The seven grants awarded under Zero Waste SA's reuse and recycling infrastructure grants program will divert an estimated 130 000 tonnes of waste from landfill. It is an extremely important investment towards getting the infrastructure right to support one of our key targets in our state strategy, which is about increasing the recovery and use of commercial industrial waste material by 2010.

South Australia is a leader in waste recycling with about 1.2 million tonnes of waste going to landfill in South Australia, while 2.1 million tonnes is recycled; about twice the amount we use is recycled. I think that is an important achievement. This equates to almost 65 per cent of waste being diverted from landfill. However, we need to become better at dealing with our waste, as our current practices are just not sustainable. We are also wasting valuable resources that could be reused and recycled. The seven grants that have been awarded are:

- Plastics Granulating Services to process more difficult plastic waste systems, including heavily soiled plastic films and plastics containing high moisture levels;
- Perpetual Products and Resources Pty Ltd to purchase plant and equipment, including a trommel, vibrating screens, a pug mill and conveyor for its site at Dry Creek (I hope I do not get a supplementary question to ask me exactly what those things are);
- Regional Recyclers Pty Ltd to establish high quality recyclable materials recovery and sorting equipment facility;
- Integrated Waste Services for a resource recovery facility for green organics, timber and tyres;
- Solo Resource Recovery for the diversion of construction and demolition material from landfill;
- Alternative Fuel Company Pty Ltd at Wingfield for the purchase and installation of a secondary shredder for oversized construction, commercial and industrial waste, which will then be used as an alternative fuel source;
- L.F. Jeffries Nominees Pty Ltd for kerbside organics pre-treatment.

In addition to these grants, I am delighted to announce that over $200 000 from the research and market development program will go to three South Australian companies that have come up with unique recycling ideas. The research and market development program aims to increase the size and diversity of markets for recycling material. Most importantly, regional areas have not been forgotten. An amount of $520 000 is also being awarded to eight regional councils and rural recyclers. This funding is aimed at helping regional communities set up and develop local recycling initiatives and will result in nearly 5 700 tonnes of waste being diverted from landfill and will help to develop vital infrastructure. These grants play an important role in our goal of recycling and reusing as much of our waste as we can.

PETROL, GST INCOME

The Hon. D.G.E. HOOD: I seek leave to make a brief explanation before asking the Minister for Police, representing the Treasurer, a question about GST income for petrol.

Leave granted.

The Hon. D.G.E. HOOD: Family First policy is that petrol taxes are too high and that room exists to provide a rebate, in line with the Queensland model. With petrol stations today charging up to 143.9¢ a litre for unleaded petrol, such prices are hurting families across South Australia. Certainly, any further price increase would cripple consumable income for families, as much of their available

income would be used in the purchase of petrol. My questions to the Treasurer are:

1. Upon what price for crude oil or its derivatives did the state government budget for GST income for petrol in the 2005-06 and 2006-07 financial years?

2. If that price is exceeded by the actual petrol prices being charged during those periods, as it almost certainly has at current levels, will the state government return those funds to taxpayers in line with the Queensland model?

The Hon. P. HOLLOWAY (Minister for Police): The GST revenue is collected through the commonwealth government and reimbursed back to the state. So the commonwealth government provides the states with an estimate at budget time as to what the GST revenue in total will be. It is my understanding that it does not have a breakdown in relation to particular items from which the GST will come. If there is any different information from that, I will check with the Treasurer and bring it back. It is my understanding that the states get a gross figure.

The honourable member would need to understand that, if people are spending more for petrol, given the stretched budgets many people have, invariably they would reduce their spending commensurately on other goods, so the GST on other goods would reduce. Unless people are spending more overall, the state would not get more GST revenue. The extra that people are spending on petrol will equate to reduced expenditure on other goods. If the GST on petrol goes up, it will probably fall commensurately elsewhere. One can look at the overall income from GST, and I think those figures were provided to this parliament some time back; while they jump around a bit, there was a reduction in the commonwealth mid-year budget review, but it increased slightly in the more recent figures. It certainly is not true to say that the state has a windfall of revenue.

Contrast that with what I read in *The Advertiser* yesterday, where the commonwealth government had just discovered that since the budget it will receive an extra $20 billion in company tax for the current year. Taking the population share for South Australia, that is $1.5 billion. The Liberals have been peddling this nonsense that this state is awash with cash. I will tell you who is awash with cash; it is the commonwealth government, with an extra $20 billion, while this state's share is $1.5 billion. Imagine what that would do in this state. While this government, due to some very diligent financial management is bringing budgets in—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: It is something he could not do. The former treasurer—'Red ink Rob'—

The Hon. J.S.L. DAWKINS: On a point of order, the minister is well aware that pointing in the chamber is out of order.

The PRESIDENT: The minister will continue his answer without pointing.

The Hon. P. HOLLOWAY: The former treasurer could not manage a budget surplus. This government has managed four consecutive surpluses, and they have all been used to reduce the debt of the state. Compare that with $20 billion at the federal level. Imagine what one could do in all these areas with that amount of money.

Members interjecting:

The Hon. P. HOLLOWAY: Wasted it? How can you waste it? It has not been spent. That is the whole point.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Wortley will come to order.

The Hon. P. HOLLOWAY: The Hon. Dennis Hood asked a reasonable question in relation to petrol. I think it concerns all of us, particularly members who have constituents who are not that well off, when the cost of petrol is as it is (I think it was $1.42 this morning). It is undoubtedly causing hardship to people's budgets, but I think that it is important that we know that it does not represent a windfall to state governments. As I said, people will have to pay for petrol, and they will either reduce the amount they buy, which will reduce the GST, or, alternatively, they will—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: GST is on a whole lot of other things that would be discretionary. The fact is that there is no windfall. The only windfall we have in this country is the massive windfall the federal government has achieved through company tax and income tax. Of course, there has been a whole lot of cost shifting from the commonwealth in areas such as health and so on. Will the commonwealth government give this state its entitlement to medical places in our universities so that we can address some of the health crises? Instead of interjecting inanely, these are the sorts of issues that members opposite should be writing to their federal colleagues about and requesting a better deal.

What about road funding in this state? This state has been short-changed on road funding by commonwealth governments for years. On behalf of the Treasurer, I will check in relation to the question asked by the honourable member as to whether there is a breakdown. What we can say is that, from overall GST revenue from this state, there will be no windfall in the coming year.

RAIL, NOARLUNGA

The Hon. S.G. WADE: I seek leave to make a brief explanation before asking the Minister for Police, representing the Minister for Transport, a question about the extension of the Noarlunga rail line to Aldinga.

Leave granted.

The Hon. S.G. WADE: The Labor Party policy for southern Adelaide for the 2006 election fails to mention the Noarlunga rail line extension to Aldinga or even the feasibility study that the government has claimed is under way. In responding to my question on 10 May 2006 on the proposed extension of the Noarlunga rail line, the minister indicated that the Noarlunga rail project has been suggested for some time. While the minister indicated his awareness of the project, he failed to confirm that the feasibility study was continuing or whether the project was still a priority for this government. Yesterday's *Advertiser* reports cost blow-outs of $11 million in the Bakewell Bridge project and a further $35 million in the Anzac Highway-South Road project. My question is: in the context of the government's silence on the Noarlunga rail line to Aldinga project, has the government abandoned the feasibility study and yet again let down the people of the South?

The Hon. P. HOLLOWAY (Minister for Police): It is rather interesting that members opposite should be talking about blow-outs when, at the last election, they offered what must be one of the cheapest roads in the world—to duplicate the road to Victor Harbor for less than $200 million. If only it were that simple. How members opposite think that if they happen by some misfortune to be in government they could duplicate a road like that to Victor Harbor for the sort of money they were offering just defies belief. What we have seen—

The Hon. J.S.L. Dawkins interjecting:

The Hon. P. HOLLOWAY: The honourable member talks about cost blow-outs, but is he saying that, if there were a Liberal government, the cost to build a road would be any different? If we had a Liberal government today, are members opposite saying that, if they wanted to build a road such as the northern expressway, somehow or other things would be cheaper? Would the cost of steel be cheaper, or would the cost of construction be cheaper, because these things are not built by governments? Is the honourable member saying that it would be cheaper? Is he saying that it would be any cheaper if he were in government?

Are members opposite saying that, if they were in government, somehow or other these projects (that have not yet been built, and the contracts have not been let) would be cheaper? I do not know who they are trying to kid. They use terms such as 'blow-out'. A contract has not been let for these things. At the moment, what we have are a few estimates.

Members interjecting:

The PRESIDENT: Order! The minister has the floor.

The Hon. P. HOLLOWAY: I will refer the question to the Minister for Transport. The question the honourable member asked relates to a specific program. The honourable member is correct: it was not on the government's list, because the government has an extensive list of traffic projects which would be of significant benefit to the people of the south. Who else would benefit? If you put in an underpass at the corner of Sturt Road, who else would that benefit other than the people in the southern suburbs? However, I will refer the question to the Minister for Transport to see whether he has any additional information he wishes to bring to light.

WATER EFFICIENCY LABELLING AND STANDARDS BILL

The Hon. G.E. GAGO (Minister for Environment and Conservation) obtained leave and introduced a bill for an act to provide for water efficiency labelling and standards as part of a cooperative scheme between the commonwealth and the states and territories; and for other purposes. Read a first time.

The Hon. G.E. GAGO: I move:

That this bill be now read a second time.

I have pleasure in presenting the Water Efficiency Labelling and Standards Bill 2006. The Water Efficiency Labelling and Standards scheme, known as the WELS scheme, aims to conserve water supplies by providing water-use information to purchasers of water-using products, thereby promoting the adoption of the efficient and effective water-use technologies and encouraging manufacturers to compete to improve efficiency of water use. The scheme will provide the opportunity to customers to conserve precious water resources and energy, and provide economic benefits to South Australians.

The regulatory impact statement for the scheme prepared by the commonwealth government predicted that, once the scheme was in place, 1 140 megalitres of water per year would be conserved in South Australia by 2011—an impressive figure. By 2021 this is predicted to rise to 5 370 megalitres of water per year. By simply choosing more efficient appliances by 2021 the Australian community stands to save more than $600 million through reduced water and energy bills. The WELS scheme is projected to reduce greenhouse gas emissions from electricity and gas use by reducing the amount of hot water used in showers, taps, clothes washers and dishwashers.

The energy savings generated by the WELS scheme are estimated to produce a reduction in greenhouse gas emissions of 570 000 tonnes annually within 18 years. The WELS scheme is a national joint initiative of all Australian state and territory governments in cooperation with the commonwealth government. This bill is the South Australian contribution to a national scheme of legislation that was developed by the Environment Protection and Heritage Council with input through the Natural Resource Management Ministerial Council. It seeks to create a comprehensive and seamless scheme which is not possible using commonwealth government powers alone, particularly where trade is solely within South Australia. The commonwealth will administer the scheme which removes the necessity for South Australia to set up a regulatory unit.

The bill allows the commonwealth regulator to exercise powers in relation to South Australian manufacturers and retailers which are not incorporated or engaged in intrastate trade. Within South Australia there is little manufacturing of water-using appliances solely for intrastate trade, hence the application of the South Australian WELS legislation will be limited. Nevertheless, passing of this legislation will reinforce the message from South Australia that parliament is committed to implementing cost-effective water conservation measures. It will also allow South Australia to be represented on the WELS advisory committee, which advises on new products to be considered, new minimum standards, review of the legislation, and setting of budgets.

At the Council of Australian Governments meeting of 25 June 2004 the commonwealth government and state and territory governments signed the Intergovernmental Agreement on a National Water Initiative. Under this national water initiative agreement, states and territories agreed to an urban water reform program aimed at: providing healthy, safe and reliable water supplies; increasing water use efficiency in domestic and commercial settings; encouraging the reuse and recycling of waste water where cost-effective; facilitating water trading between and within the urban and rural sectors; encouraging innovation in water supply sourcing, treatment, storage and discharge; and achieving improved pricing for metropolitan water.

Parties to the national water initiative agreed to the implementation and compliance monitoring of WELS, including mandatory labelling and minimum standards for agreed appliances by the end of 2005. The commonwealth Water Efficiency Labelling and Standards Act 2005 was assented to on 18 February 2005. Complementary legislation is already in place in New South Wales, Victoria, the ACT and Tasmania. Legislation is currently before the Western Australian parliament. New Zealand is still in the discussion stage regarding its proposed WELS legislation. State legislation is based on model legislation developed by the Victorian government in consultation with the Office of Parliamentary Counsel in the other states and territories. The use of the Victorian act as a model for corresponding bills in all other states and territories is to ensure national consistency, which is desirable from the point of view of both industry and administrators of the legislation.

The South Australian bill differs from the commonwealth legislation and the Victorian model where specific wording

is needed to meet the requirements of South Australian drafting conventions. The scheme replaces the voluntary water labelling scheme which has been managed by the Water Services Association of Australia. WELS will operate in conjunction with the voluntary Smart Approved WaterMark scheme, which targets mainly domestic outdoor appliances and for which there are currently no rating standards.

The WELS scheme will be similar in nature to the national energy efficiency labelling scheme for electrical appliances—I know you take a keen interest in these matters, Mr President—which has seen substantial energy efficiency improvements for household appliances. Consultation with Australian industry (including importers) has been extensive and is ongoing, with very positive and supportive feedback to date. Product suppliers and retailers actively support the introduction of a mandatory water efficiency labelling program. Many of the water authorities and the plumbing industry regulators have also advocated the immediate introduction of the scheme. The Water Services Association of Australia is supportive of the mandatory scheme.

The WELS intergovernmental agreement between the South Australian government and the Australian government was signed on 6 November 2005. The agreement provides for the cooperative oversight of the scheme. A National Water Efficiency and Standards Advisory Committee made up of one representative of each state and territory and a chairperson appointed by the commonwealth minister has been established under the WELS intergovernmental agreement.

The National Water Efficiency and Standards Advisory Committee will be able to consult with representatives from industry, environment and consumer groups where appropriate. The Australian government has provided the funds required for the establishment and operation of the regulatory system under the scheme until 30 June 2005. The legislation provides for cost recovery through the charging of application and licence fees to the extent consistent with commonwealth government policy on cost recovery. Manufacturers will pay the cost recovery charges to the commonwealth regulator on a per product model basis when registering their products with the regulator.

Fees charged to manufacturers will be $1 500 per product model registered. The party to the intergovernmental agreement will provide any other funds required for the ongoing operation of the regulatory system under the scheme from 1 July 2005, in accordance with the usual Environment Protection and Heritage Council formula; namely, 50 per cent commonwealth government funds and 50 per cent from the states and territories on a pro rata population basis. This is estimated to be around $10 000 per annum for South Australia.

The commonwealth government has developed a communications plan. It is expected that this will be reenforced by each state. To date, communications have been mainly with the manufacturing and retail industry. The Water Efficiency and Labelling Standards Bill brings considerable benefits for water and energy conservation to the people of South Australia.

It is an important element of the South Australian government's plan to reduce urban water consumption and secure Adelaide's long-term water requirements under the Water Proofing Adelaide Strategy, but it will also have flow-on benefits to commerce and some industry, and to outback South Australia where water resources are obviously very scarce.

There may be a reduced need for infrastructure spending, more effective water demand and resource surety, and reduced water and sewage treatment requirements. The WELS scheme will therefore provide substantial benefits, and I commend the bill to the council. I seek leave to have the explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

3—Objects of Act

Clause 3 sets out the objects of the Bill. The Bill is intended to ensure that purchasers of particular types of water-use and water-saving products are provided with information to assist and encourage them to select more water-efficient products. It is also intended to encourage (and in some cases require) suppliers of these products to adopt more water-efficient technology. Ultimately, it is envisaged that the purchase of more water-efficient products will result in reduced water consumption, thus contributing to the conservation of water supplies.

3A—Numbering consistent with Commonwealth Act

Clause 3A explains the numbering scheme adopted in the Bill. It is designed for consistency with the Commonwealth Act. The clause also points readers to the Schedule for a comparison of the provisions of the Bill with the provisions of the Commonwealth Act. The Schedule is designed to assist readers in understanding the overall national scheme.

4—Act binds Crown

Clause 4 provides that the measure binds the Crown in right of this State and also, so far as the legislative power of the State extends, the Crown in all its other capacities, but not so as to impose any criminal liability on the Crown.

Part 2—Interpretation

7—Definitions

Clause 7 defines several terms used in the Bill.

Part 3—National WELS scheme

8—WELS scheme to be national cooperative scheme

Clause 8 notes that this Bill is intended to form a part of a cooperative scheme between the Commonwealth and the States and Territories. All State and Territory Ministers have agreed in principle to introduce complementary "mirror" legislation to operate in conjunction with the Commonwealth Act. The effect of the complementary legislation will also be to compensate for the jurisdictional gaps in the coverage of Commonwealth powers in relation to the operation of the WELS Scheme.

10—Relationship to other State laws

Clause 10 clarifies that the provisions of this Act do not replace or override any existing State laws.

12—Meaning of corresponding law

Clause 12 defines "corresponding law".

16—No doubling up of liabilities

Clause 16 prevents persons from being punished or penalised twice for an offence under this Bill, if they have already been punished or penalised for the same offence under the Commonwealth Act.

Part 4—WELS products and WELS standards

21—Meaning of WELS labelled

Section 18 of the Commonwealth Act enables the Commonwealth Minister to determine that certain products are covered by the WELS scheme and set out standards for those products. Before such a determination can be made, however, the Commonwealth Minister must have the agreement of a majority of the participating States and Territories to the terms of the determination. A "participating State or Territory" is one in which there is a corresponding State-Territory law within the meaning of the Commonwealth Act. Section 19 of the Commonwealth Act states what must be set out in WELS standards and enables the standards to require products to be registered or labelled for the purposes of specified supplies.

Clause 20 enables a WELS standard to impose labelling requirements for WELS products. The clause allows the labelling requirements may relate to—

- the characteristics, contents, placement and quality of labels attached to products or displayed on product packaging;
- documents or other material used for, or provided in connection with, the supply of the product;
- advertising the product.

Part 5—WELS Regulator

22—Functions of Regulator

Under the Commonwealth Act the Commonwealth Secretary (ie currently the Secretary of the Department of the Environment and Heritage) is the Regulator. Clause 22 sets out the functions of the Regulator, which are essentially to oversee the operation of the scheme, and include—

- To administer the WELS scheme: The Regulator will, inter alia, receive and process applications for registration and issue registrations, fund and provide WELS inspectors, and administer operation of the WELS Account established under the Commonwealth Act.
- To undertake or commission research in relation to water-use and water-saving products, and provide advice in relation to determining that water-use or water-saving products are WELS products: The Regulator will evaluate which products should be subject to the scheme and the provisions that should apply to them and advise on this. The intent of this provision is to provide for a mechanism that will continuously identify products to be included in the scheme over time, and possibly also some products that no longer ought to be included.
- To undertake or commission research in relation to WELS standards and their effectiveness in reducing water use, provide advice to the Minister about the operation of WELS standards, and assist in the development of WELS standards: The Regulator will evaluate the standards that should apply to particular WELS products and the effectiveness of standards in meeting the objects of the Act, and advise the Minister on this, as well as contributing to work to develop standards. (This could result in changes to standards. Some products might need to be modified in order to comply with the revised standards, or have their registration withdrawn.)
- To provide information and advice to the public, the Minister and the relevant chief executive about the operation of the WELS scheme: The office of the Regulator will be the principal contact point for members of the public on the WELS scheme and will be responsible for the preparation and dissemination of information regarding the scheme. It will also provide advice to, and circulate information on behalf of, government.
- Such other functions as are conferred on the Regulator by this Act, the regulations or any other law.

23—Powers of Regulator

Clause 23 empowers the Regulator to do all things necessary or convenient to be done for or in connection with the performance of these functions.

24—Arrangements with other agencies

Clause 24 provides for the Regulator to make arrangements with other government agencies to assist with carrying out functions and duties and exercising powers under the Act. Other agencies may have expertise in areas relevant to the operation of WELS, and it may increase efficiency and cost-effectiveness for the Regulator to draw on this. For example, it is envisaged that the certain State consumer affairs agencies could assist with compliance and enforcement action.

25—Delegation

Clause 25 provides for the Regulator to delegate powers to other State/Territory or Commonwealth officers (subject to the Regulator's directions). It is envisaged that much of the work undertaken to fulfil the Regulator's functions will be carried out by officers within the Regulator's Department, so it will be necessary for the Regulator to delegate powers to the principal officers involved. Also, given the provision under clause 24 for the Regulator to make arrangements with State government agencies to assist with carrying out functions, it would be necessary for the Regulator's capacity to delegate to be extended to relevant officers of such agencies. Delegation of powers to a State government officer or employee is subject, however, to the agreement of the State.

Part 6—Registration of WELS products

26—Applying for registration

Clause 26 provides for the manufacturer (who may be defined for the purposes of this Bill by regulation under the Commonwealth Act) of a WELS product to apply for registration of the product. The purpose of registration is to develop better knowledge of the market and assist with compliance monitoring and enforcement of the WELS scheme. Information obtained through registration will be used to assess whether products comply with the relevant standards and to determine the appropriate rating labels. While it is intended that some types of WELS products will not be subject to mandatory registration, because the benefits of subjecting them to the scheme appear to be marginal, it will still be possible for products of those types to be voluntarily registered, so that, for example, the manufacturer of a water-efficient product of that type who wishes to demonstrate the product's water-efficiency is able to do so. Once a product has been registered, even if registration for that product is optional, the product must comply with any registration requirements, including labelling requirements, set out in the applicable WELS standard.

27—Documentation etc to be provided with application for registration

Clause 27 applies the requirements set out under the Commonwealth Act as to how an application for registration is to be made and the conditions that must be met to maintain registration. Subject to disallowance by either House of the Commonwealth Parliament, the Commonwealth Act provides for the Commonwealth Minister to specify the form an application is to take, together with the documentation and registration fee that is to accompany the application. It is intended that the documentation required of applicants for registration of a WELS product is to include evidence of the results of testing the product against the relevant WELS standard, as well as (where relevant) a sample of the water efficiency label to be used for the product. It is also intended to charge a registration fee at a level sufficient to cover the costs of administering the WELS scheme, in line with Commonwealth Government cost-recovery policies.

28—Registration of products

Clause 28 requires the Regulator to register, by notice published in the Commonwealth of Australia Gazette, a WELS product for which an application for registration has been received and approved by the Regulator, or, where an application for registration has been refused, to give the applicant written notice of the refusal. If the Regulator has neither registered the product nor notified the applicant of refusal within 3 months of the application being made, the application is automatically taken to have been refused.

29—Grounds for refusing to register

Clause 29 specifies grounds on which the Regulator may refuse to register a WELS product. These are that the application has not been made in accordance with the requirements of clause 27, that the Regulator is not satisfied as to the accuracy of the information provided in the application, or that the product fails to satisfy the requirements of the relevant WELS standard.

30—Period of registration

Clause 30(1) provides for 5 year registration periods for WELS products (unless the registration is cancelled or suspended under clause 31). A 5 year registration period has been stipulated to mirror the arrangements in place for the existing energy labelling program and is accepted by industry as a suitable registration period due to the rapid changes in technology and the frequent introduction of new models. However, if during the registration period for a WELS product the Commonwealth Minister makes a determination on a new or revised WELS standard, subclause (2) provides that existing registrations under the superseded standard will expire 12 months after the introduction of the new or revised standard. If the Commonwealth Minister extends that 12 month period for the corresponding provision of the Commonwealth Act, subclause (3) applies that extension to the South Australian Act.

31—Cancelling or suspending registration

Clause 31 empowers the Regulator to cancel or suspend the registration of a WELS product where conditions of registration are not being complied with or where the Regulator subsequently becomes aware that the information provided in the application for registration was not accurate at the time of application or is no longer accurate because changes have been made to the product. In circumstances where the Regulator determines that the registration of the WELS product is to be suspended or terminated, the Regulator is required to provide the person on whose application the product was registered with written notice of the cancellation or suspension of registration of the WELS product. Subclause (3) requires the Regulator to cancel a registration upon request from a manufacturer of a WELS product, in circumstances where the current WELS standard for that product type does not require the product to be registered. This provision is for the benefit of manufacturers who no longer wish to register WELS-label products that are not required to be registered.

Part 7—Offences relating to supply of WELS products

Division 1—Applicable WELS standards

32—Meaning of applicable WELS standard

Clause 32 defines "applicable WELS standard" as the standard under which a WELS product is registered or, where the product is not registered, the most recent WELS standard relating to that type of product.

Division 2—Registration and labelling

33—Registration requirement

Clause 33 makes it an offence to supply an unregistered WELS product where the applicable standard requires the product to be registered.

34—Labelling registered products

Clause 34 makes it an offence to supply a registered WELS product without a label, where the applicable standard requires the product to carry a label if registered. (Note: in some cases, a product may not be required to be registered, but the standard may specify that if the product is registered, it must carry a label. In such a case, it would not be an offence for the product not to be registered, but if it were registered, it would then be an offence for it not to carry a label.)

Division 3—Minimum efficiency and performance requirements

35—Minimum water efficiency—products required to be registered

Clause 35 makes it an offence to supply a WELS product required to be registered that does not comply with minimum water efficiency requirements specified in the applicable WELS standard.

36—Minimum general performance—products required to be registered

Clause 36 makes it an offence to supply a WELS product required to be registered that does not comply with minimum performance requirements specified in the applicable WELS standard.

Division 4—Misuse of WELS standards etc

37—Misuse of WELS standards and information

Clause 37 makes it an offence to use a WELS standard or information included in a WELS standard, in a manner that is inconsistent with the standard, for example, by supplying a labelled product that is not registered.

38—Information inconsistent with WELS standards

Clause 38 makes it an offence to use information for or in relation to supply of a WELS product, that is inconsistent with information in the applicable WELS standard. For example, this would include supplying a product with additional labels or markings of a type that contradict the message of the approved label.

39—Using information in supply of products

Clause 39 elaborates on the meaning of using information for the purposes of clauses 37 and 38. Without limiting the general meaning of words used in those clauses, it specifies that information is used for, or in relation to, the supply of a product if the information is conveyed on or by a label, packaging, document or other material provided with or in connection with the product or any advertising relating to the product.

Offences against clauses 33, 34, 35, 36, 37 and 38 are all intended to be offences of strict liability to which the common law defence of honest and reasonable mistake of fact applies. Strict liability is imposed to facilitate the expedient enforcement of the provisions given that there are expected to be a high number of inadvertent contraventions of the Act. A strict liability regime is intended to facilitate the imposition of penalties for the physical elements of the offences without proof of fault. Without a strict liability regime in place, it would be very difficult to enforce these provisions.

Division 5—Extensions of criminal responsibility

39A—Attempts

Clause 39A makes it an offence to attempt to commit an offence against Division 2, 3 or 4 punishable by a maximum fine of 60% of the maximum fine for the offence attempted to be committed.

39B—False or misleading information or document

Clause 39B makes it an offence to give false or misleading information or produce a false or misleading document in connection with an application to the Regulator or in complying or purporting to comply with this Act (other than Division 4 of Part 9) or the regulations.

Part 8—Other enforcement

Division 2—Publicising offences

41—Regulator may publicise offences

Clause 41 allows the Regulator to publicise convictions against the Act, without placing any limitations on the Regulator's powers in this regard. Nor does it prevent anyone else from publicising an offence against the Act or affect any obligation on anyone to publicise an offence against the Act. It is envisaged that publicising offences against the Act will act as a deterrent to others against further offences against the Act.

Division 3—Enforceable undertakings

42—Acceptance of undertakings

Clause 42 enables the Regulator to accept undertakings (or variations to or withdrawal of undertakings) in connection with matters relating to compliance with a WELS standard or registration condition. This provision is intended to act as an alternative to prosecution in those circumstances where non-compliance with the Act would otherwise result in an offence in relation to the compliance with a WELS standard or a registration condition.

43—Enforcement of undertakings

Clause 43 provides for the Regulator to apply to the District Court, where the Regulator considers that a person has breached any terms of an undertaking given under clause 42, for an order to direct the person either to comply with the terms of the undertaking, pay the State an amount up to that of any financial benefit the person has gained as a result of the breach, compensate any other person for loss or damage resulting from the breach, or anything else that the Court considers appropriate.

Division 4—Injunctions

44—Injunctions

Clause 44 empowers the District Court, on the application of the Regulator, to grant an injunction either to restrain a person who is engaging in or proposing to engage in conduct constituting an offence against the Act from engaging in that conduct, or to require the person to take such specified action as the Court determines in order to comply with the Act. Subclause (2) empowers the Court, on application, to grant an injunction, by consent of all parties to the proceedings regardless of whether the Court is satisfied of the commission or potential commission of an offence. Subclause (3) enables the Court to grant an interim injunction pending its determination of an application. The purpose of this is to enable the court to prevent any potential damage, destruction or the removal of the products from the jurisdiction while it is considering the application. Subclause (4) prevents the Court from requiring the Regulator or anyone else to give an undertaking as to damages as a condition of granting an interim injunction. Subclauses (5), (6) and (7) enable the Court to discharge or vary the injunctions referred to above.

Part 9—WELS inspectors

Division 1—Appointment of WELS inspectors

45—Regulator may appoint WELS inspectors

Clause 45 empowers the Regulator to appoint State and Commonwealth government officers and employees as WELS inspectors. The appointment of State government

officers and employees as WELS inspectors is, however, subject to the agreement of the State. This clause also requires WELS inspectors to comply with any directions of the Regulator in exercising their powers or performing their functions as WELS inspectors.

46—Identity cards

Clause 46 requires the Regulator to issue photographic identity cards (the form of which is to be prescribed by regulation under the Commonwealth Act) to all WELS inspectors. It requires that WELS inspectors must carry their identity cards at all times while operating as WELS inspectors. Subclause (3) makes it an offence for WELS inspectors to fail to return their identity cards to the Regulator as soon as practicable after ceasing to be WELS inspectors. Subclause (5) prohibits a WELS inspector from exercising powers as a WELS inspector without being able to produce his or her identity card at the request of the occupier of premises to be inspected.

46A—Offences in relation to WELS inspectors

Clause 46A makes it an offence to hinder or obstruct or impersonate a WELS inspector.

Division 2—Powers of WELS inspectors

47—Purposes for which powers can be used

Clause 47 as a general provision, enables WELS inspectors to exercise their powers for the purposes of determining whether a person is complying with the Act or regulations or for the purposes of investigating offences against the Act or regulations.

48—Inspection powers—public areas of WELS business premises

Clause 48 allows WELS inspectors, in exercising their powers, to enter WELS business premises at any time when the premises are open to the public (ie during normal business hours) to monitor compliance with the Act, and to do essentially the same things as members of the public are able to do on the premises during normal business hours, including inspecting WELS products; purchasing any WELS product that is available for sale; inspecting or collecting written information, advertising material or any other documentation that is available to the public; discussing product features with any person; or observing practices relating to the supply of products. However, this does not affect any rights of occupiers to refuse to allow inspectors on their premises.

49—Inspection powers—with consent

Clause 49 allows a WELS inspector to otherwise enter premises with the consent of the occupier of the premises. In seeking the consent of the occupier, the WELS inspector must make the occupier aware that he or she may refuse or withdraw consent at any time.

50—Refusing consent is not offence

Clause 50 makes it clear that it is not an offence for occupiers of WELS premises to refuse to allow WELS inspectors to enter or remain on their premises without a warrant.

51—Inspection powers—with warrant

Clause 51 authorises a WELS inspector to enter premises with a warrant, irrespective of the occupier's consent. WELS inspectors who do enter premises with consent or with a warrant are provided general powers of search, inspection and information gathering. This clause also empowers a WELS inspector (who has entered premises with a warrant) to require any person on the premises to answer questions and produce documentation. Failure to comply with such a request from a WELS inspector is an offence. This clause also empowers the inspector to seize or secure any evidential material on the premises and ensures that the Regulator has the powers needed to take immediate action to secure evidence relevant to an investigation or prosecution. (Note that clauses 55, 56 and 57 set out requirements relating to seizing, securing and holding of evidential material).

52—Announcement before entry under warrant

Clause 52 requires a WELS inspector, before entering WELS premises under a warrant, to announce that he/she is authorised to enter the premises and to provide any person at the premises the opportunity to allow entry. However, a WELS inspector need not comply with this if he or she reasonably considers that immediate entry is necessary to ensure the effective execution of the warrant.

53—Copy of warrant to be given to occupier

Clause 53 requires a WELS inspector to give to the occupier of premises (if present) a copy of the warrant being executed in relation to the premises and identify himself or herself to the occupier. The copy of the warrant need not include the signature of the magistrate who issued the warrant. (Note: this is to allow for clause 59 urgent warrants, where there may not be an opportunity to obtain the magistrate's signature before executing the warrant.)

54—Occupier must provide inspector with facilities and assistance

Clause 54 makes it an offence for the occupier of WELS premises (at which a warrant is being exercised), not to provide the WELS inspector executing the warrant with all reasonable facilities and assistance for the effective execution of the warrant.

55—Seizing or securing evidential material

Clause 55 requires a WELS inspector who seizes or secures evidential material to issue a receipt for such material to the occupier of the premises. The Regulator is permitted to make copies of the material, and to examine or test the material, even if that might result in damage to the material. The Regulator is, however, required to return or release the material when it is no longer needed for the purposes for which it was seized or secured, or within 90 days at the latest. The purpose of this provision is to prevent businesses from being impeded for longer than is necessary.

56—Holding evidential material for more than 90 days

Clause 56 enables the Regulator to apply to a magistrate for an order allowing possession or control of the material for a further specified period than the 90 days provided for by clause 55. In determining an application, the magistrate must allow the owner of the material to appear and be heard, and must not make an order for the extended possession or control of evidential material unless satisfied that it is necessary for the purposes of prosecuting an offence against this Act.

57—Returning evidential material

Clause 57 allows the Regulator to dispose of evidential material, as the Regulator thinks appropriate, where the Regulator is unable to locate the owner of the material despite making reasonable efforts.

Division 3—Applying for warrants to enter WELS premises

58—Ordinary warrants

Clause 58 enables a magistrate to issues a warrant to a WELS inspector, if the magistrate is satisfied that entering the premises is necessary to determine whether a person is complying with the Act or regulations or to investigate a possible offence against the Act. The magistrate may require further information to be provided with a warrant application in order to determine the need or otherwise for the warrant to be issued. A warrant authorises the WELS inspector to enter the premises using such assistance and force as is necessary and reasonable. The warrant must state the purpose for which it is issued, indicate when the entry is authorised, and specify the day on which it ceases to have effect (warrants may be issued for a maximum of one week).

59—Warrants by telephone, fax etc

Clause 59 allows for a WELS inspector to apply for an urgent warrant by telephone, fax or other electronic means. Where practical, the magistrate may require communication by voice and may record such communication. In such circumstances, before applying for the warrant the WELS inspector must still prepare information setting out the grounds on which the warrant is sought and of the necessity to enter the WELS premises, but if necessary the WELS inspector may apply for the warrant before the information is sworn or affirmed. If the magistrate is satisfied that there are reasonable grounds for doing so, he/she may then issue a warrant as if the application had been made under clause 58. The magistrate must then advise the WELS inspector of the terms of the warrant, the day on which and the time at which the warrant was signed, specify the day on which it ceases to have effect (warrants may be issued for a maximum of one week), and record on the warrant the reasons for its issue. The WELS inspector must complete a form of warrant in the same terms as advised by the magistrate and record the name of the magistrate and the time and date on which the warrant was signed. The WELS inspector must send this form of warrant to the

magistrate within one day after the execution or expiry (whichever is earlier) of the warrant, together with duly sworn or affirmed information pertaining to the grounds on which the warrant was sought. The magistrate is then required to attach these documents to the warrant and deal with them as if they were an ordinary warrant under clause 58.

Division 4—Giving WELS information to WELS inspectors

60—Meaning of person who has WELS information

Clause 60 defines a "person who has WELS information" as being a person whom the Regulator believes to be capable of providing information relevant for the purposes of investigating or preventing an offence under the Act.

61—Regulator may require person to provide information

Clause 61 enables the Regulator, by written notice, to require a person who has WELS information to provide such information, documents or records as specified in the notice to a WELS inspector within a specified period of not less than 14 days.

62—Regulator may require person to appear before WELS inspector

Clause 62 enables the Regulator, by written notice, to require a person who has WELS information to appear before a WELS inspector in order to answer questions and provide to the inspector documents or records referred to in the notice, within a specified period of not less than 14 days. It is an offence not to comply with requirements under clauses 61 and 62. Notices given by the Regulator under clauses 61 and 62 are required to set out the effect of clause 62A.

62A—False or misleading information or documents

Clause 62A makes it an offence to knowingly give false or misleading information, or produce false or misleading documents, to the WELS inspector.

Division 5—Privilege against self incrimination

63—Privilege against self incrimination not affected

Clause 63 provides that a person is not obliged to answer questions, give information or produce documents where to do so might entail self-incrimination.

Part 10—Money

Division 1—WELS Account

65—Credits to WELS Account

Clause 65 requires all money received by the State in respect of fines, expiation fees or undertakings and all money received by the State under Division 2 of Part 10 to be paid to the Commonwealth for crediting to the WELS Account (established under the Commonwealth Act).

66—Purpose of WELS Account

Clause 66 identifies the purposes of the WELS Account as being to make payments for furthering the objects of the Act and for other reasons connected with the performance of the Regulator's functions and the administration of the Act and regulations.

Division 2—Charging fees etc

67—Regulator may charge for services

Clause 67 enables the Regulator to charge fees for services provided in the performance of the Regulator's functions. This provides the option to run the scheme on a cost-recovery basis. It has been established (*Attorney-General v Wilts United Dairies Ltd* (1921) 38 TLR 781) that the imposition of fees or charges in respect of the performance of statutory duties needs to be authorised expressly by legislation or by necessary implication, which is the purpose of this clause. To avoid the imposition of taxation, any fees would be charged in respect of activities and services provided by the Regulator for the benefit of the fee payer, and the level of fees would be reasonably related to the costs of performing that function.

68—Recovery of amounts

Clause 68 allows for the recovery of fees and other amounts payable to the State in connection with the WELS scheme as a debt due to the State.

Part 11—Review of decisions

69—Meaning of reviewable decision and affected person

Clause 69 defines a "reviewable decision" as a decision by the Regulator to refuse to register a WELS product under clause 29 or to cancel or suspend the registration of a WELS product under clause 31. It also defines an "affected person" as a person whose application to register a WELS product has been refused or whose WELS product has had its registration cancelled or suspended.

70—Notification of decisions and review rights

Clause 70 requires the Regulator to ensure that the affected person, in relation to a reviewable decision, is given written notice containing the terms of the decision, reasons for the decision and information regarding the person's review rights. Nevertheless, failure to comply with this provision does not affect the validity of the decision.

71—Internal review

Clause 71 provides for an affected person to apply for internal review by the Regulator of a reviewable decision made by a delegate of the Regulator. The Regulator is then required to review the decision personally. The Regulator may affirm, vary or revoke the decision and substitute such other decision as he/she sees fit. An application for internal review must be made within 30 days of receipt of the decision by the applicant.

72—Review of decisions by District Court

Clause 72 is peculiar to South Australia and provides for appeals to the District Court against reviewable decisions and decisions in internal reviews.

Part 12—Miscellaneous

72A—Imputation in proceedings of conduct or state of mind of officer, employee etc

Clause 72A provides that the conduct and state of mind of an officer, employee or agent of a body corporate acting within the scope of his or her actual, usual or ostensible authority will be imputed to the body corporate.

The conduct and state of mind of an employee or agent of a natural person acting within the scope of his or her actual, usual or ostensible authority will be imputed to that person. In this case if the natural person would not have been convicted of an offence but for this provision, the person is not liable to imprisonment.

72B—Liability of officers of body corporate

Clause 72B provides that if a body corporate commits an offence, each officer of the body corporate guilty of an offence unless it is proved that the alleged contravention did not result from any failure on the officer's part to take all reasonable and practicable measures to prevent the contravention or contraventions of the same or a similar nature

73—Compensation for damage to electronic equipment

Clause 73 requires the Regulator to pay compensation to the owner of electronic equipment or the user of data or programs, where in the course of the operation of such equipment as provided for in clause 49, damage or corruption results to the equipment, data recorded on the equipment or programs associated with the use of the equipment or data, arising from insufficient care being exercised by the person operating the equipment or in selecting that person to operate the equipment. Where the Regulator and the affected person disagree over the amount of the compensation, the person may take the matter to the District Court to determine. In determining the compensation payable, the Court is to have regard to whether the occupier, or the occupier's employees and agents had provided appropriate warning or guidance on the operation of the equipment.

75—Annual report

Clause 75 requires the Minister to table in both Houses of Parliament within 15 sitting days each annual report of the Regulator received on the operation of the WELS scheme.

76—Review of operation of WELS scheme

Clause 76 requires the Minister to table in both Houses of Parliament within 15 sitting days the report received of the independent review of the WELS scheme carried out under the Commonwealth Act after the scheme has been in operation for 5 years.

77—Regulations

Clause 77 provides for the making of regulations prescribing matters necessary or convenient to be prescribed for the purposes of the Act. This may include (but is not limited to) prescribing fees, penalties and expiation fees.

Schedule 1—Comparison with Commonwealth Act

Schedule 1 contains a table comparing the provisions of the Commonwealth Act as at the date that Act came into operation with the provisions of this Act as at its date of assent.

The Hon. CAROLINE SCHAEFER secured the adjournment of the debate.

WATTLE RANGE PLAN AMENDMENT REPORT

The Hon. P. HOLLOWAY (Minister for Urban Development and Planning): I seek leave to make a ministerial statement on the Wattle Range Plan Amendment Report.

Leave granted.

The Hon. P. HOLLOWAY: At the request of the Wattle Range Council I prepared a ministerial PAR to amend the policies in the development plan in order to facilitate value-adding industry in the South-East. At the same time the ministerial PAR has amended the public notification categories for certain forms of development so that the notification requirements are aligned with the policies set out in this document.

The public notification categories directly reflect the types of development which the policies promote in a particular zone in order to facilitate orderly and appropriate development. These policy amendments recognise the importance of the area set out in the PAR in terms of the economic significance to the state of South Australia. As such, because of the particular location of the area affected, in terms of its proximity to the Katnook power station, the potential for value-adding industries to reactivate the rail line and the presence of the existing value-adding industries established in the area, the Governor has brought the PAR into interim operation.

This matter is of regional significance and its interim operation will contribute towards the key targets of sustained economic and job growth, increased productivity, as well as the creation of a climate that encourages investment and the potential for greater exports. While the ministerial PAR is an interim operation, interested members of the public will be afforded a two-month time period to enable public consultation on the PAR, consideration of the written submission on the PAR by the Development Policy Advisory Committee (DPAC), and a public meeting on the submission on the PAR undertaken by DPAC.

While interim operation does enable projects such as the proposed pulp mill development to be considered, this PAR does not provide such a proposal with any approval status. Any such application would be subject to the full and proper assessment procedures, as set out in the Development Act. This PAR shows the government's commitment to the economic prosperity of this state. The alignment of policies and development plans to encourage appropriate developments is testament to the dedication of this government to increase employment opportunities for South Australians, particularly in rural areas such as the South-East.

DEVELOPMENT (PANELS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 30 May. Page 201.)

The Hon. A.L. EVANS: The content of this bill previously formed part of the Sustainable Development Bill introduced into parliament in 2005. The government has determined that it is more prudent to allow parliament to consider manageable parcels of the Sustainable Development Bill and, accordingly, will introduce a suite of bills covering the subject matter of the former Sustainable Development Bill, and I support this approach.

The Government states that the Development (Panels) Amendment Bill is one of the aforementioned measures that set out to improve South Australia's planning and development system by providing greater policy, procedural and timeliness certainty for the community and applicants. The main issue this bill seeks to address, which I have deciphered from briefings and other discussions with interested persons, is that of impartiality of development assessment decisions.

The government believes that increased impartiality will be achieved by requiring that council development assessment panels have a mixture of elected members or council officers and specialist members and, moreover, that the presiding member of the council development assessment panels be a specialist member. It is no surprise that this proposed amendment to the structure of development assessment panels has been a contentious one, particularly amongst the councils and community interest groups. I will return to discuss the merits of such amendment in just a moment.

The current state of the law is such that councils are permitted to include specialist members on their development assessment panels, but they are not required to have such representation. The result of this flexibility of choice is that the composition of development assessment panels varies significantly between councils. Some councils have appointed specialist members to their development assessment panels; others have not. The number of specialist members appointed also differs. In addition, panel membership as a whole in the state is significantly different, ranging from five to 16 members. In this regard, I agree, in principle, that there should be certain further guidelines regarding the composition of development assessment panels to ensure a greater degree of uniformity within the state.

I have received a large amount of correspondence from various constituents on this issue, much of it dating back to when the proposed amendments formed part of the sustainable development bill. Many constituents have made strong arguments against changing the structure of the development assessment panels to include specialist members. I will refer to only a few of those arguments. Some have argued that each council should be given the freedom and flexibility to determine for itself the best composition of development assessment panels. Accordingly, the law should remain as it is, and those councils that wish to appoint specialist members can do so.

Some have argued that the decision-making power in relation to development applications should not be taken from elected members; to do so would be undemocratic. Clearly, this argument rests on the rationale that elected council members are responsible to residents in their local government area, whilst specialist members are clearly not. Essentially, residents would have no political recourse against a specialist majority. In many cases, proponents of this view have expressed also their concern and belief that the development assessment panels would be stacked with development-friendly members to the detriment of the community.

The government has addressed this argument by arguing that the assessment of development applications is essentially an administrative function carried out in accordance with development plans established by councils. Accordingly, the

councils remain in control of making the development plans. However, the adjudication of the case-by-case applications should be delegated to impartial specialist members. In this way, it becomes an impartial decision-making process undertaken by a third party.

The government refers to the Development Assessment Commission's structure as an example of such a system under which a panel of experts make decisions based on the criteria set out in the Development Plan for the relevant part of the state. There are several concerns regarding the logistics in appointing and maintaining specialist members on development assessment panels. I am currently considering my position in relation to these issues. However, at this point I am supportive of the second reading of the bill.

The Hon. R.P. WORTLEY secured the adjournment of the debate

SUPPLY BILL

Adjourned debate on second reading.

(Continued from 30 May. Page 211.)

The Hon. B.V. FINNIGAN: I support the Supply Bill which will ensure the appropriation of moneys for the state government to continue until the budget is brought down in September. The budget will be delivered by the Treasurer in September and will continue the responsible fiscal management that the Rann government has shown over the past four years. The budget was delayed pending the outcome of the election, because the government was not so arrogant as to presume on the judgment of the South Australian people that it would necessarily be returned and therefore lock in all the budget discussions which take place some months before the delivery of the budget. Of course, the delay in the budget will enable us to continue finding those efficiencies which we indicated prior to the election would be required in order to continue our sound fiscal record.

I will talk a little about the record of the Rann Labor government over the past four years. We have delivered four consecutive net operating budget surpluses totalling $1.057 billion. We have had budget surpluses in every budget compared with the last four years of the previous Liberal government which had consecutive net operating budget deficits totalling $1.009 billion. That is the clear distinction: over $1 billion in surplus for the four budgets of the Rann government, but over $1 billion in deficit for the last four budgets of the Liberal government. That is the comparison. That is the difference between this government and the previous government.

Members interjecting:

The ACTING PRESIDENT (Hon. I.K. Hunter): Order! The chair is having difficulty hearing the quiet voice of the speaker.

The Hon. B.V. FINNIGAN: Not forgetting, of course, that the former Liberal government conducted an auction and sold off the best assets of the state and still returned budget deficits. It is a bit like selling your house and not paying off the mortgage, and then finding you still have a massive debt. This is the record that the Liberal government had in its period of power—consecutive budget deficits, selling off assets and still remaining in debt. When the Labor government came to office—

Members interjecting:

The ACTING PRESIDENT: Members to my left and right will come to order!

The Hon. R.P. Wortley interjecting:

The ACTING PRESIDENT: The Hon. Mr Wortley will come to order!

The Hon. B.V. FINNIGAN: I can assure members opposite—

Members interjecting:

The ACTING PRESIDENT: Order! I inform members that I do have a hearing problem and, although some of you may not wish to do so, I would like to hear the Hon. Mr Finnigan's contribution.

The Hon. B.V. FINNIGAN: Thank you, Mr Acting President. I assure members opposite that Mr Howard is not a hero of mine, particularly when he is raking in billions dollars of revenue. The commonwealth took over income tax during the war, and now it has the GST. It has money pouring in. What is it doing with it? It is using it to pay for ad campaigns to convince the people of its bankrupt policies, particularly its industrial reforms. It has spent over $50 million attacking unions and selling its industrial reforms. What could that have done for the mental health system, building roads, or the other things that we need in this state?

I assure members opposite that Mr Howard is not a hero of mine, particularly when it comes to budgets. All he does is take the money from people, store it up and then give it back to them in the form of income tax cuts. Those tax cuts, of course, are slated for the wealthy in our community. When the Rann government came to office, the government net debt for South Australia was $1.3 billion. This figure was reduced to $144 million without one privatisation. This government did not sell off ETSA, privatise hospitals or sell off bus services. That was the record of the opposition when it was in government; yet it still left us with a government net debt of $1.3 billion. Our government reduced that to $144 million last year without any form of privatisation.

In the four years of this Labor government we have announced $1.5 billion in tax cuts by 2010-11, and land tax will be cut by $264 million over five years. This compares to the approach of the Hon. Mr Lucas at the last election when he promised land tax cuts. He could not say to whom, where or how they would be delivered, but he was sure tax cuts were in order, funded out of his shedding of the jobs of public servants. The Labor government will be cutting payroll tax by $93 million over four years. In the period of the Labor government we have increased first home buyers' stamp duty concessions and abolished debit tax, cheque duty, lease duty and mortgage duty for home owners. It is phasing out rental duty. The government is phasing out stamp duty on taxi licences—

The Hon. R.P. Wortley interjecting:

The PRESIDENT: Order! The Hon. Mr Finnigan does not need any help from the Hon. Mr Wortley.

The Hon. B.V. FINNIGAN: —water licences, fishing licences and other non-realty related property transfers. There will be $1.5 billion in tax cuts by 2010-11 under this government. In the four years of the Rann Labor government, there has been a net increase in employment in South Australia of nearly 55 000 people, whereas in the eight years the Liberals were in government there was a net increase of 54 000. There have been more jobs in the four years of a Labor government than in the eight years the Liberals were in power. South Australia's unemployment rate was 6.9 per

cent when the Rann government came to power, and today it is 5.4 per cent.

Confidence in the South Australian economy is at very high levels. South Australia's private business investment, as a share of total economic growth, has surpassed the national average under the Rann Labor government. It remains committed to responsible budgets in surplus, delivering on the commitments it has made to South Australians: 400 extra police over the next four years on top of the over 200 we have recruited already; 100 extra teachers over the next four years going into junior primary education; upgrading hospital infrastructure; taking back management of the Modbury Hospital; and, of course, spending money on mental health services, to which the opposition claims to be committed, yet we have the Hon. Ms Lensink referring to people being 'out of their tree'. She has withdrawn those comments, but members opposite have suggested that the Leader of the Government was psychotic because he was pointing across the chamber. That shows their respect for, or concern about, mental health issues; that is, suggesting that this sort of behaviour exercised in the chamber is comparable to psychotic behaviour. It shows an utter disrespect to those who suffer from mental illness.

Members interjecting:

The PRESIDENT: Order! The behaviour this afternoon has been very ordinary. I suggest that members come to order or I will start naming them.

The Hon. B.V. FINNIGAN: The Rann Labor Government will continue its commitment to responsible budgets and responsible economic management in order to keep the budget in surplus. The Liberal Party, of course, suffered one of its worst defeats in the recent election. I am sure the Hon. Mr Lucas bears considerable responsibility for that.

It appears that the Liberal Party sat down and said, 'We are a bit worried about Finniss, because Dean Brown is retiring, so we will build a freeway down there—it won't cost much—$130 million or something. We're a bit worried about the aged voting for us, so we'll make sure we have a few hand-outs for them. How are we going to pay for that?' The answer was simple: 'We'll just get rid of a few public servants. We'll cut 4 000 in one year—one stroke—get rid of those public servants, put them off the books, that will save us a bit of money', and with their Liberal Party promises they thought they would be able to use that money to shore up the constituencies they were worried about—in all likelihood resulting in a rise in the unemployment rate, had the Liberals been successful in winning office. That is not to mention the cuts to tax, as I have already mentioned, which were simply not thought through or calculated at all and almost certainly would have proved inaccurate, had the Liberal Party been successful in winning.

I happened to hear on the radio this morning the Treasurer and the member for Bragg, the Deputy Leader of the Opposition in another place, talking about the health budget. The Treasurer had said that, if the federal government, with the enormous revenue it is raking in, is not prepared to give South Australia its fair share to ensure that we can run our health system properly, the question of state management of the health system would be a problem for future state governments, because how in the future could we know we are able to administer the health system if we are not getting our fair share of funding from the commonwealth?

The Deputy Leader of the Opposition had the nerve to criticise the Rann Labor government—this coming from the party that privatised the Modbury Hospital, sold off ETSA and sold off our bus routes, the party which in government was selling off our assets, still running budget deficits and now having the gall to attack the Labor government for seeking a fair outcome on health funding. If this is not a conversion on the road to Damascus, I do not know what is! The Liberal Party, the defenders of the public health system! What an extraordinary notion that we should rely on the Liberal opposition to protect our public hospital system and ensure we get a fair share of funding from the commonwealth. That is extraordinary, given their record when in government. You would think that, having suffered one of the worst defeats any major party has had—

Members interjecting:

The Hon. B.V. FINNIGAN: —particularly the Liberal Party only managing to win three out of 11 seats in the Legislative Council: not a feat that has been managed since the reforms of the 1970s—not a feat that has been achieved by the Labor Party in any election, including 1993. With that result you would think the Liberal Party would have taken stock, realised it had to hold the government to account and present itself as a credible opposition.

Instead, we had the member for Unley in another place in his contribution on the Supply Bill talking about the member for West Torrens and myself. I am pretty sure he was referring to me, although he did not name me. You would think, having almost lost a safe seat and having personally shaved almost 10 per cent off the margin of the seat of Unley, that Mr Pisoni would have better things to worry about than the member for West Torrens and me. You would think that the new member for Unley would be interested in representing his constituents, those who are not in the furniture manufacturing business; having a relationship with them, he is keen to represent them. You would think that the member for Unley would be keen to represent his constituents, but instead he is worrying about the member for West Torrens and me and what kind of a figure we cut when we walk into a room. This is the preoccupation of the Liberal opposition.

We had in our own house the Hon. Mr Wade, in only his second contribution to the chamber, talking about Labor Party preselection, in particular mine. I have no inferiority complex about my own preselection, and if others do that is a matter for them. I was selected by the Labor Party in accordance with its rules and democratic processes. I was very pleased to find that I had a great deal of broad support amongst the Labor Party, which resulted in my being its choice to represent the Labor Party in this place for the next four years.

The PRESIDENT: The honourable member is a little wayward on the matter of supply, unless he is referring to the fact that the Labor Party supplied him to this place. Perhaps he would stick to the Supply Bill.

The Hon. B.V. FINNIGAN: I was simply highlighting the fact that, instead of getting on with the business of holding the government to account and presenting themselves as an alternative opposition, there are members opposite who seem to be more focused on the Labor Party. It is always a sign of a party with no ideas and no plans for the future if all it can talk about is members on the other side.

I conclude by saying that, along with all other members of the government and, I imagine, all members here, I will be supporting the bill. It is a measure to ensure that the government can continue functioning as it ought. It is important to remember that the Rann Labor government has a responsible record of fiscal management over the past four years. It has run consecutive budget surpluses, in contrast to the record of the previous Liberal government. Over the past four years,

under Labor there has been a $1 billion surplus compared with a deficit of $1 billion under the Liberal Party when it was in government. Those are the competing records.

This government will continue its responsible fiscal management, running a surplus budget and ensuring that it delivers on its commitments over the next four years, that is, our transport infrastructure projects, providing extra police and teachers, and improving our hospital system. These are the issues the Labor government will be concentrating on. The Supply Bill is a measure to ensure that the government is able to continue until the budget is brought down in September. I know that all members look forward to the government continuing its responsible fiscal management in that budget. I commend the bill to the council.

The PRESIDENT: Before the Hon. Mr Lawson speaks, I hope that the red jelly has worn off and that members can show some restraint as we listen to him.

The Hon. R.D. LAWSON: I rise to support the passage of the Supply Bill, which will appropriate the sum of $3.1 billion from the Consolidated Account for the Public Service of this state for the year ended 30 June 2007 to be applied during the period until the Appropriation Bill is passed after the budget to be introduced later this year. Obviously, we will have to wait until the debate on the Appropriation Bill, which I certainly look forward to with some pleasure, to express some of the disappointments many in the community will be feeling about the deficiencies in the budget that the Treasurer is already foreshadowing.

I think that it is appropriate to say that this Supply Bill comes in at a time and in circumstances where there is an abundance of funds in the South Australian Treasury. Rivers of gold are flowing into the state Treasury. This is the highest taxing government in the history of this state. As a result of the economic policies of the Howard-Costello government and the prosperity being enjoyed across the country, this state is in good economic shape. The GST revenue flowing into this state is substantial—once again as a result of the good economic management of the federal government. The Rann government is collecting $2.3 billion more in revenue in this current financial year than in the last year of the former Liberal government (2001-02).

An additional $2.3 billion is a significant amount when compared with the total size of the South Australian budget. Moreover, South Australia is receiving a GST windfall. The federal budget recently released shows that the net gain to this state from the GST deal previously entered into by the Liberal state government will be $1.1 billion over the four years from 2006-07 to 2009-10. That is $1.123 billion extra over and above that which is anticipated. The Treasurer of this state can beat his chest all he likes about how he is a good Treasurer and a good economic manager.

The fact is that anyone—a drover's dog—could be the Treasurer of this state at the moment. It is nothing to do with the so-called good economic management of this government. Indeed, just in the past few days, the incapacity of this government to manage its budget in the transport portfolio has been highlighted, and that is only a small part of it. When the budget is released and the true performance of the state is judged, we will see the blow-outs that have occurred.

In his contribution, the Hon. Mr Finnigan talked about the fact that the Rann government would be focusing on important measures: hospitals, schools, police, and the like. What do we see then when this parliament comes back after the election? Almost the first bill—apart from the Supply Bill—is legislation to ban rock throwing at moving vehicles; it is not rock throwing at stationary vehicles or pedestrians, but a special bill to address that one issue. It might be an important issue, and I am not saying that it is unimportant. Certainly it is if you are the victim of such an attack. However, that is not significant in terms of the management of this state's economy.

It is a little reminiscent of the bill that the Rann government introduced in the last parliament to ban the eating of dog flesh in circumstances where it was not a serious problem at all. It is a diversion. It is something to gain a headline. It is something to gain some perceived political advantage in the community. You address some trivial issue rather than face up to the problems which we are really facing in this state. We have an ageing population, and we have low population growth, despite all the rhetoric from the—

The Hon. R.P. Wortley interjecting:

The PRESIDENT: Order!

The Hon. R.D. LAWSON: Notwithstanding the ABS figures recently released, this government was suggesting that we are enjoying a population boom. South Australia's population growth is inadequate, and this government has simply not introduced policies to address that appropriately. We have all been aware in recent days of the situation in remote Aboriginal communities, and a number of those communities are within our own state. Admittedly, most of the focus has been on remote communities in the Northern Territory, but in the Anangu Pitjantjatjara lands and elsewhere in this state Aboriginal communities are experiencing similar problems of domestic violence, criminality, substance abuse, drunkenness and criminal behaviour.

I acknowledge that this government has put in additional moneys, and the federal government has, over the past few years, put in additional moneys to programs for Aboriginal people. However, it is clear that this government has not been effectively managing those additional resources. It is all very well to say that we are spending another $60 million on the APY lands, but unless a government has ministers who are effective in managing those programs, effective in ensuring that services are delivered and that law and order is restored to the lands, the money is simply squandered.

Only recently I visited the Adelaide Women's Prison with a delegation of parliamentarians. We were shown through the prison by the Chief Executive Officer of the Department for Correctional Services. The government has been talking about replacing this facility for a number of years. This facility requires urgent replacement. I believe the Hon. Terry Roberts (of fond memory) in his first budget as minister said that the inadequacies of the Adelaide Women's Prison were being addressed and that the government was looking very closely at building a new Adelaide Women's Prison and that we would see one, but that project has been deferred again and again and still is not on the horizon.

Once again, we have a government which talks tough, which wants to create the impression that it is tough on law and order, but which is not prepared to make the investments that are necessary if we are to have an effective correctional system. Indeed, the whole of the Department for Correctional Services is underfunded. For example, community corrections has been in a state of crisis for the past three years because there is inadequate management of the resources available to it. The government seeks to talk tough on law and order but is not prepared to make the investment. Similarly, there has been the fiasco about DNA testing. This government has

made a great thing, put out many press releases about how additional DNA—

The Hon. R.P. Wortley: The crime rate's dropped.

The PRESIDENT: Order!

The Hon. R.D. LAWSON: The rather puerile interjection from across the chamber—

The PRESIDENT: The one that you will ignore or won't respond to.

The Hon. R.D. LAWSON: Yes, the one that I am ignoring, but it illustrates the point precisely. The crime rate in Australia generally—everywhere in Australia—has been dropping over the past few years, more as a result of the economic management and economic conditions wrought by the federal coalition government. It is true that the crime rate has been falling in South Australia. It has been falling since 2001, since before this government came to office. For the government to claim that this fall in the crime rate is the result of its policies is a nonsense.

The Hon. R.P. Wortley interjecting:

The Hon. R.D. LAWSON: The Hon. Mr Wortley—

The PRESIDENT: Is out of order.

The Hon. R.D. LAWSON: He is entirely out of order in congratulating the hapless Attorney-General—

The PRESIDENT: He's out of order with his interjections.

The Hon. R.D. LAWSON: —who I am not sure would be grateful for the support of the Hon. Mr Wortley, but at least he had the honesty to say that the fall in the crime rate in South Australia had nothing to do with the policies of the Rann Labor government. For the honourable member to suggest that the crime rate has been falling as a result of additional investment is preposterous nonsense. There are many projects like the Adelaide Women's Prison—for example, a number of transport projects—that have been deferred and deferred. It was only in the context of the last state election when the government decided it had to come up with some big visionary projects that it rushed a few artists' sketches into the press to create the impression that it was doing something.

There are so many projects one could go through that are not being appropriately addressed, but one is the Youth Training Centre at Magill. It has been recognised that those facilities are entirely inadequate. The previous government acquired land for the purpose of developing a new youth training facility, but this government has failed to deliver. The situation is that here we have a government with more financial resources than any other government in this state's history, yet it is failing the community of South Australia dismally through its failure to deliver projects on budget or at all. This government is more interested in creating political impressions, creating publicity and making announcements that it is doing things when, in fact, nothing is happening. We are not getting sufficient return on the vast resources that are being applied to the community. I support the bill.

The Hon. CARMEL ZOLLO secured the adjournment of the debate.

CRIMINAL LAW CONSOLIDATION (THROWING OBJECTS AT MOVING VEHICLES) AMENDMENT BILL

In committee.

Clause 1.

The Hon. R.D. LAWSON: I did ask some questions during the second reading and, whilst the minister attempted (off the top of his head) to provide answers, I do not believe he answered them completely. I will come to them in a moment. It does seem to me that the comments of the Law Society on this bill ought to have been appropriately noted, and this may be an appropriate time to do so.

The Law Society wrote to the Attorney-General on 10 May, and I have just received a copy of its letter. The Criminal Law Committee states:

> The existing laws in section 29 of the Criminal Law Consolidation Act and section 51 of the Summary Offences Act would seem to be sufficient for criminalising the act of dropping or throwing an object at a moving vehicle. To propose the new section 32A provision it would be most desirable to discern that those existing laws are not adequate. If they are adequate then there is not any need for any other law. There is nothing to indicate in the second reading speech that those existing laws are not adequate.
>
> The new provision section 32A appears to be concerned with endangerment but without proof of danger on the basis that throwing rocks at a moving vehicle is prima facie dangerous. If the conduct is prima facie dangerous then it is already criminalised at least in section 29 of the Criminal Law Consolidation Act. The examples of rock throwing at vehicles on the Southern Expressway or at buses on the O-Bahn would be appropriately prosecuted and criminalised under section 29 of the Criminal Law Consolidation Act and punished accordingly.
>
> The second reading speech states that 'throwing' is to be connoted as an intentional act. If the new section 32A offence is to be concerned with an intentional act, it should say so, consistently with other criminal offence provisions concerned with intentional conduct and thereby making the provision clear and certain so that it cannot be concerned with the other types of conduct mentioned.

There is a reference to a note that appeared on the new section 32A which, as the Attorney acknowledged in another place, was in error. It has been deleted, so I will not read that aspect of the Law Society's letter. However, the Law Society further states:

> Given that it seems section 32A of the bill is to be a lesser version of section 29 of the Criminal Law Consolidation Act, then it would seem, subject to a more fulsome consideration, that section 32B of the bill proposing that a section 32A offence is an alternative verdict to a murder or manslaughter charge, that section 32B also makes the section 32A offence an alternative verdict for a section 29 offence.

The letter continues:

> It is to be further noted that the Statutes Amendment and Repeal (Aggravated Offences) Act 2005 apparently introduced substantially higher penalties for the section 29 offences so that they are respectively 18 and 15 years; 12 and 10 years; and 7 and 5 years for the sequence of offences therein, depending on whether the offence is a basic offence or an aggravated offence. It would be presumed that the increase in penalties for the section 29 offences are designed to reflect the policy concerned with harsher penalties for rock throwers.

I believe that the comments of the Law Society are pertinent and to the point, and I do not believe that they have been appropriately addressed by the minister in his response.

The Hon. P. HOLLOWAY: I will obtain a response for the honourable member when we come back to this bill next week. It is my intention to enable the Hon. Nick Xenophon to move his amendments, which I understand he will do next, and that will give everyone an opportunity to look at them before we come back next week. In relation to the issues that the Hon. Robert Lawson has specifically raised, I will have a response for him when we debate this bill next week. If he is happy with that, the Hon. Nick Xenophon can move his amendments and we will then adjourn.

The Hon. NICK XENOPHON: I move:

Page 2, line 4—
Delete 'Moving'

This is a test clause. It relates to deleting the word 'moving' from the title of the bill so that it becomes the Criminal Law Consolidation (Throwing Objects at Vehicles) Amendment Bill 2006. Essentially, this bill in its current form relates to a different type of offence where there are circumstances of aggravation, in a sense, by virtue of the vehicle's being in motion; that there is a presumption that life is being endangered and that it is a more serious offence by virtue of a vehicle's being in motion when an object is being thrown at it. No doubt, we will hear from the government in the committee stage as to what sort of objects are being contemplated, because that is a matter for regulation, that is, whether it is a rock of a certain size, or a lump of concrete or whatever.

The Hon. R.I. Lucas: Egg?

The Hon. NICK XENOPHON: The Hon. Mr Lucas says, 'Egg?' Well, even an object like that being thrown at some vehicles could cause a hazard in some cases. However, I do not think that is the intention of the bill. It relates, in particular, to the very tragic circumstances of the young man who was gravely injured some time ago and who is currently still in the process of rehabilitation as a result of that cowardly and despicable act of a rock being thrown at his vehicle. The object of this bill is to make it clear and to send a message, as I understand it, that, if an object is thrown at a vehicle, it ought to be a more serious offence. The question I posed in the second reading stage of this bill was: what difference is it if you are in traffic and your vehicle happens to be stationary, or has just become stationary, and an object is thrown at it, given that, if it means that the clutch is disengaged or you start moving forward as a result of losing control of the vehicle that is on the road, clearly that also would pose a significant public safety hazard.

If an object is thrown at a person and smashes the windscreen, missing the person by a fraction of a centimetre, why should the perpetrator be charged with a much lesser offence—where there are all sorts of evidentiary difficulties in dealing with that sort of offence as a summary offence under the Road Traffic Act—than in the case where the vehicle is in motion? Why is there such a distinction if the vehicle is on the road? Essentially, these amendments will ensure that, if a vehicle is stationary but it is being driven, the provisions of this amendment apply.

I point out to honourable members who have concerns in relation to this matter that the definition of 'drive' in the Criminal Law Consolidation Act is much narrower than in the Road Traffic Act. In the Criminal Law Consolidation Act, 'drive' includes 'ride', and the natural meaning of the word is taken as distinct from the artificial meaning, some would say, in the Road Traffic Act, where the definition includes 'drive' as being in control of a vehicle—and there are many drink-driving cases in relation to that. So, the definition of 'drive' here is much more circumscribed than it is in the Road Traffic Act and takes the natural meaning. So, it would be a case of being stationary on the road, your motor is on, and you are about to pull off from the kerb, for instance. You are not only in control of the vehicle but the motor is on and you are about to drive off. So, it is more limited in its scope in that regard.

Essentially, I believe this amendment gives some consistency to the bill. However, I do note the comments made yesterday by the Hon. Mr Lawson in relation to this matter, and I think he is right that, if the legislation is broad and simpler and there is some scope for the discretion of the courts—and I think I am fairly stating the Hon. Mr Lawson's position—that is the preferred course. However, if the government is going to go down the path of addressing this particular mischief, let there be some consistency. If a vehicle is on the road and it happens to be stationary (it happens to have just come to a stop) when an object is thrown at it, why should the perpetrator be able to argue that they are not subject to this legislation, whereas if they happened to throw the object three seconds earlier they would be subject to the legislation? It does not make sense to me, from a policy point of view.

The Hon. R.D. LAWSON: There are a couple of other questions I would like the minister to answer during the committee stage. The bill refers to prescribed objects. Does the government have any idea of what objects are to be prescribed and when they will be prescribed? I think it is important that the committee is aware of what is proposed to be prescribed. Can the minister indicate whether this provision will cover throwing objects at railway vehicles? There was some debate earlier as to whether or not it would also include throwing items at an animal—for example, a horse that is being ridden. I indicate on behalf of the Hon. Terry Stephens, who has the conduct of this bill, that our party room has not actually examined the Hon. Nick Xenophon's proposal, but we will certainly give it early consideration.

The Hon. P. HOLLOWAY: I will get an informed answer on those matters for when we resume the debate on this. Obviously, the question about the trains depends on the definition of 'vehicle', and that is one I would like to discuss with the adviser here rather than give incorrect information.

Progress reported; committee to sit again.

INSTITUTE OF MEDICAL AND VETERINARY SCIENCE (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 31 May. Page 253.)

The Hon. A.L. EVANS: I rise to support the second reading of this bill. This bill aims to make two changes to the current Institute of Medical and Veterinary Science Act 1982. The first relates to the governance and the second relates to the operations of the IMVS. Regarding the first amendment, as stated in section 7(1) of the current act, the IMVS will be administered by a council, and section 7(2) defines which organisations are entitled to nominate members to that council. One of those organisations is the Royal Adelaide Hospital. However, the governance of the health system has become the responsibility of regional health services and is incorporated under the South Australian Health Commission Act 1976. Currently the Royal Adelaide Hospital is operated by the Central Northern Adelaide Health Service; however, that may change. The bill proposes that the right to nominate two members to the council of the IMVS resides in whichever body, established under the South Australian Health Commission Act, provides the health service in the Royal Adelaide Hospital. I believe the proposal reflects the reality of hospital governance.

The second amendment deals with a concern raised by the Crown Solicitor as to the capacity of the IMVS to operate outside South Australia. The minister has provided several examples of the outstanding work of the IMVS outside South Australia, and the act should be amended to remove any doubt over the legal capacity to continue this work. The work

of the IMVS is beneficial to the families of South Australia and to people in the wider region. Accordingly, at this stage I support the second reading of this bill.

The Hon. G.E. GAGO (Minister for Environment and Conservation): I understand that there are no other speakers and therefore I will make some concluding remarks. The purpose of this bill is to ensure that the Institute of Medical and Veterinary Science (IMVS) is working from a legally secured position when it provides services both nationally and internationally and to align the responsibility for nominating people to the board with the current governance arrangements within the health portfolio. I thank members who contributed to this debate. I thank the Hon. Michelle Lensink for the most important questions that she raised around gender issues in relation to the position of women who choose to pursue a career in science. It is well documented across the western world that women are under-represented in science and science related areas.

Members may remember Baroness Professor Susan Greenfield who undertook a residency in South Australia as part of the government's Thinkers in Residence initiative. As part of her residency, Professor Greenfield worked with the Office for Women and women working in science to look at the issues that they faced. She found that the issues were very similar to those faced by women in the UK. First, girls are less likely to choose to take science subjects at school, which obviously then restricts their career course. Secondly, women working in science face specific issues which restrict their participation rate and career advancement. As Professor Greenfield says, if we are to maximise our scientific capital as a society, we need to recruit and retain as many women as possible in science, engineering and technology.

With regard to women at the IMVS, I am pleased to report that the situation is more positive than the annual report would suggest. Many of the senior women at the IMVS, including doctors, nurses and pathologists, choose to work part-time. This skews the salary data so that it appears that women are in less well paid positions than is the case. These women are working part-time by choice. Many women with scientific training choose to work at the IMVS as it provides them with the flexibility of employment conditions, which obviously women with families need and prefer, at least for that phase of their lives. The IMVS is one of the largest employers of scientific and technical officers in South Australia, and to maintain its work force it has to provide flexible employment opportunities so that it can recruit and retain staff.

Having said that, it is still the case that generally there are fewer female pathologists than male pathologists, which has historically been the case. Pathology has not been seen as a glamorous career choice. While forensic pathology has had an image makeover courtesy of the various television programs recently, the IMVS does not undertake forensic pathology, so it has missed out on that little window of opportunity. However, this is changing and, in recent years, the IMVS has a slightly higher number of female registrars in pathology than males. A senior female researcher at the professorial level is about to come to the IMVS from the UK to undertake work regarding molecular pathology, indicating that things are changing in this field, albeit slowly. Regarding the issue of only five people taking up purchased leave, compressed weeks, or the option of working from home, I am advised by the IMVS that no-one who has ever applied for these options has been refused.

It needs to be understood that the IMVS provides laboratory services 24 hours a day, people work on rosters and, for the scientific staff working from home, it is often not an option in the majority of cases—they need to be in the laboratory. Therefore, the position of women within the IMVS, in general terms, reflects the position of women in all scientific areas. Obviously, it is an area where much work still needs to be done. This is slowly changing, I am pleased to say, but clearly, as I have stated, more work and emphasis needs to be given to these particular areas. The IMVS has in place a range of flexible employment practices which employers are using. Senior women are choosing to work part-time and, as I said, this skews the salary data. It is in the interests of the IMVS to try to recruit and retain women with various types of scientific training, and it is doing this. Those are my concluding remarks.

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

NATURAL RESOURCES MANAGEMENT (TRANSFER OF WATER LICENCES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 30 May. Page 211.)

The Hon. SANDRA KANCK: There is no doubt in anyone's mind that the River Murray is in crisis. I think a century or so ago, if we had the knowledge then that we have now about the meteorology and hydrogeology of that area, we would be placing severe restrictions on irrigation based industries, not just here in South Australia but throughout the whole of the Murray-Darling Basin. The reality is that we have those industries and we are dependent on them now for the feeding of much of Australia's population, and of course irrigators who work along the River Murray depend on it for their livelihood. So, we have had to work within the constraints of history and the economy and, sadly, the environment has ended up being the loser in that.

Before we had locks and irrigation, flooding of a minor nature occurred probably once every three years and major flooding occurred less frequently. I am not exactly certain of this but probably it was about an eight to 10 year cycle for major flooding of the sort that we saw in the early 1970s and in the 1956 floods. They were regular occurrences and the natural environment was adapted to that sort of flooding. Now we are lucky to get minor flooding once every 10 to 12 years. So, what we have done with the construction of locks and irrigation is to impose an artificial drought on the environment. The consequence of that is that something like 90 per cent of the trees in the River Murray flood plain in South Australia are under stress.

Two years ago I was fortunate as a member of the Natural Resources Committee to inspect the Monoman Island Horseshoe in the Chowilla Basin, where the then minister for environment had purchased some water, and they had blocked off part of the area and flooded it to artificially replicate what would have happened on a three-year basis in nature before we intervened. It was extraordinary, and I felt privileged to see it. It was like seeing the sorts of things that happen when there has been a bushfire and you see the eucalypts with no leaves left on them, with blackened trunks and no sign of life; and then when the first rains fall you start to see leaves coming out all over the place.

That is exactly what was happening with the trees at this site. Young leaves were just bursting out all over, with this fine yellow-green fringe all over the trees. It was a wonderful experience to see these big, old River Red gums—300, 400 or 500 years old in some cases—which had looked like they were going to die but which were being brought back to life. We were told that no matter what we did—obviously, we would not be able to buy the amounts of water that would be needed to revive the whole Chowilla Basin—we would probably lose 70 per cent of the eucalypts in that area, a matter that ought to be of extraordinary concern to us when we think about trees being the lungs of the planet.

I strongly support the government's move to recover 1 500 gigalitres of environmental flows to the River Murray by the year 2018. Of course, the latest CSIRO report that came out about a week ago indicated that that target will not be enough. Certainly, I will be pressuring the government to increase the target to much more than the 1 500 gigalitres. Nevertheless, that 1 500 gigalitres is a start—and so is this bill. This bill recognises the voluntary donation of water by irrigators back into the system so that we can use it for environmental flows. This is water which these irrigators would have been entitled to use but which is in excess of their needs.

The bill provides financial incentives to those irrigators by refunding to them, depending on how far into the year they make the donation, the pro rata proportion of NRM levies, transfer fees and stamp duties. I recognise that it is a small step, but it is a positive move in assisting the restoration of environmental flows to the River Murray. Hopefully, if we can see more moves like this, and also a determination by the government to go for a much higher amount than 1 500 gigalitres by 2018, we may be able to save more than 30 per cent of the River Red gums in the Chowilla forest.

The Hon. D.W. RIDGWAY: I rise to speak to the bill and indicate, on behalf of the Liberal opposition, that we support this measure. This bill, which was introduced by the Minister for the River Murray in another place on 3 May 2006, provides for the removal of stamp duty on water licence transfers donated to environmental licences. Section 157 of the Natural Resources Management Act 2004 provides that stamp duty is not payable in respect of the transfer of an environmental water allocation, despite the provisions in the Stamp Duties Act 1923, if the transfer is for a period of five years or less.

This particular amendment caters for transfers of licences for a period of more than five years and, in the information that has been supplied to me, there appears to be an occasion where people are changing their irrigation practices, especially in the Riverland, and they may well be changing their crops. For example, they may be pulling out their orange trees, converting their production to almonds or some other crop, and they do not have to use their full water licence straightaway, but over a period of time as the trees grow to maturity and come into full production, they will need to use more of their water licence. So, this amendment will allow them to donate, perhaps, 90 per cent of their water licence to an environmental licence and, as their crop grows, take portions of it back. Some of these crops take a number of years, sometimes eight to 10 years, to get into full production before they will need their full licence, so this provides a mechanism so that there is no stamp duty paid on that particular transfer.

The criteria for these environmental licences are set out in the Natural Resources Management Board's General Environmental Donations Licence Variations Regulations 2005, and they are accredited by the Murray-Darling Natural Resources Management Board, and it will administer that accreditation scheme. So, a person will not be able to create an environmental licence without it being accredited by the Natural Resources Management Board, so there are some safeguards that it will not be abused.

While we have this piece of legislation which we are amending before us, another issue I would like to raise is that, during the election, the Law Society and a number of constituents raised with me the fact that, when you have an intergenerational or interfamily transfer of farming assets—being a farm, the land, the stock and the plant—they can be exempt from stamp duty. That was a mechanism to keep young people farming, and to reduce the financial burden on young people trying to enter farming. On many occasions, older parents want to hand over the family farm, and a whole range of taxes and impositions, especially stamp duty, have been imposed upon them.

I think everybody agrees with family farm land, stock and plant transfers being exempt from stamp duty, but there is one omission, that is, that water licences are not exempt from stamp duty in an interfamilial transfer, and the Law Society raised it with us prior to the election. It asked that water licences be treated in the same way as plant and equipment for the purposes of section 71CC of the Stamp Duties Act 1923, so that, upon the transfer of the family farm to a family member, there is a complete remission of stamp duty in respect of the land, the plant, any equipment, and any associated water licence, if all three are transferred at the same time.

I indicate today that I will be moving an amendment to this bill to include an exemption for stamp duty on water licences when they are transferred from one family to another. Under section 71CC, subsection (1) applies to the land used for the business of primary production, and the goods comprising livestock, machinery, implements and other goods used or required for the business of primary production conducted on the land referred to in paragraph (a). Often in the Riverland, and a lot of other irrigation areas, the whole business is reliant upon access to that water, so I am sure you would appreciate that it is a very important part of an irrigation-based farming business. So, the opposition thinks that it is an opportunity to tidy up something that was left out many years ago, and I look forward to debating it with members in this chamber and getting their support. With those few words, I support the bill.

The Hon. J. GAZZOLA secured the adjournment of the debate.

GAS PIPELINES ACCESS (SOUTH AUSTRALIA) (GREENFIELDS PIPELINE INCENTIVES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 31 May. Page 248.)

The Hon. T.J. STEPHENS: I rise to indicate that the Liberal Party supports this bill. In the other place, the shadow minister for energy, Martin Hamilton-Smith, spoke in detail about why the Liberal opposition supports the bill, and I will not go into great detail myself other than to echo a few of the shadow energy minister's comments.

The bill proposes amendments to the Gas Pipelines Access (South Australia) Act 1997 and seeks to provide more certainty in regard to the regulatory coverage of greenfields pipelines, thereby encouraging further investment in new pipelines. The Liberal Party strongly supports this investment and agrees that the proposed greenfields amendments will help develop a strong interconnector gas transmission network that is crucial to a reliable gas supply and healthy competition in the market.

We understand the reasons for the bill and recognise that industry supports the proposal and that South Australia has taken a lead in its participation in the reform of the regulatory framework for Australia's energy markets. We note that the bill moved swiftly through the other place, and we do not seek to delay its passage. The Liberal Party is happy to support such a bill in a bipartisan manner to achieve positive outcomes for the future of South Australia. We support the bill.

The Hon. J. GAZZOLA secured the adjournment of the debate.

GOVERNMENT FINANCING AUTHORITY (INSURANCE) AMENDMENT BILL

Received from the House of Assembly and read a first time.

The Hon. P. HOLLOWAY (Minister for Police): I move:

That this bill be now read a second time.

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

Leave granted.

The purpose of this Bill is the amalgamation of the South Australian Government Financing Authority ("SAFA") with the South Australian Government Captive Insurance Corporation ("SAICORP"). The proposal to amalgamate SAFA and SAICORP is consistent with government policy to reduce the number of statutory authorities, advisory boards and committees and boards operating within the South Australian public sector. This measure will eliminate one board and one committee.

SAFA is a statutory authority constituted as the Under Treasurer pursuant to the *Government Financing Authority Act 1982*. It is subject to the control and direction of the Treasurer. SAFA functions as the central financing authority for the State of South Australia, its businesses and agencies, and plays an integral role in the overall management of the State's finances. As such, it harnesses economies of scale and relevant expertise in wholesale financial markets and in financial risk management to provide funding, asset and liability management, liquidity and cash management and general financial risk advisory services to public sector entities.

SAICORP is a subsidiary corporation of the Treasurer (subject to the control and direction of the Treasurer), established by regulations made under the *Public Corporations Act 1993*. It provides a formal structure for administration of the Government's insurance and risk management arrangements, carrying on in South Australia and elsewhere the business of insurer, re-insurer and co-insurer of all or any risks of the Crown. SAICORP also provides advice on issues relating to the insurance and risk management of the Government.

Although SAFA is responsible for borrowing, asset and liability management and investments, and SAICORP is responsible for insurance, collectively, both organisations operate in the financial services industry. Rationalisation in the private sector financial services industry particularly with banks and insurance companies has occurred in recent times. Synergies arising through an amalgamation of SAFA and SAICORP relate to governance arrangements, support services (particularly accounting, administration and systems) and funds management.

The Bill will amend the *Government Financing Authority Act 1982* to enable SAFA to act as captive insurer for the government and transfer SAICORP's insurance functions to SAFA.

SAICORP will be dissolved by regulation with its assets, rights and liabilities transferred to SAFA.

SAFA's board and governance arrangements will be expanded to cover the insurance functions. In particular, the membership of the SAFA Advisory Board and SAFA Audit Committee will be expanded to include members with insurance expertise. SAFA's internal audit arrangements will be expanded to cover insurance functions. SAFA's policies and procedures would also be reviewed to include insurance functions and other SAICORP processes.

From an operational perspective, the amalgamation will involve establishing an insurance division within SAFA to handle insurance, underwriting and claims management operating under the SAICORP brand name. Administrative, accounting and systems functions would be merged into SAFA's existing functions. Separate management accounts for the insurance activities would be maintained (which would be consolidated into SAFA's overall activities). This will assist premium setting and transparency. However, only one set of annual financial statements will be prepared and the details of SAFA's insurance activities will be disclosed in the financial accounts consistent with accounting standards for general insurers.

The amalgamation of SAFA and SAICORP has been discussed with SAICORP's insurance broker and reinsurers in Australia and around the world. No major issues were raised with the proposal.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Government Financing Authority Act 1982*

4—Amendment of section 11—Functions and powers of the Authority

This clause amends section 11 of the principal Act to include acting as captive insurer of the Crown and the provision of advice to the Crown on issues relating to the insurance and management of risks of the Crown as functions of the South Australian Government Financing Authority. These functions were previously undertaken by the South Australian Government Captive Insurance Corporation.

The clause also amends section 11(2) of the principal Act to provide the powers necessary to undertake the above functions. These essentially mirror the powers previously exercised by South Australian Government Captive Insurance Corporation.

Finally, the clause inserts in new subsection (3) definitions of ***Crown*** and ***risks of the Crown*** into section 11.

5—Amendment of section 12—Financial management

This clause makes a consequential amendment to section 12 of the principal Act to reflect the nature of the captive insurance function of the Authority.

6—Amendment of section 17—Treasurer may deposit public money with the Authority

This clause amends an obsolete reference.

7—Amendment of section 18B—Membership of the Board

This clause amends section 18B of the principal Act to alter the make up of the South Australian Government Financing Advisory Board. This reflects the new functions related to insurance, in that the Board is required to have at least 1 appointed member with expertise in insurance (as demonstrated by relevant qualifications or relevant experience at a senior level in the public or private sector). This additional requirement results in the consequential increase in the potential maximum number of members to 7, and the clause makes other consequential amendments to reflect the change in numbers and qualifications.

8—Substitution of section 19

This clause substitutes a new delegation power for the obsolete one currently found in section 19. The proposed power is consistent with current practice.

9—Amendment of section 20—Staff

This clause amends obsolete references in section 20 of the principal Act.

The Hon. D.W. RIDGWAY secured the adjournment of the debate.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COURT (JURISDICTION) AMENDMENT BILL

Received from the House of Assembly and read a first time.

The Hon. P. HOLLOWAY (Minister for Police): I move:

That this bill be now read a second time.

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

Leave granted.

This Bill fulfils a promise made before the last election that the Government would remove impediments to serious environmental offenders receiving the kinds of penalties Parliament intended.

At present, when dealing with serious minor indictable charges, the Environment, Resources and Development Court (the ERD Court), sitting as a court of summary jurisdiction, can neither impose a sentence that reflects what Parliament thought appropriate for the most serious offending nor remand the defendant to a superior court for it to impose a greater sentence. This problem has arisen because the maximum penalties prescribed for the most serious minor indictable environmental offences have, over time, been increased to a level far greater than can be imposed by any summary court, including the ERD Court.

The ERD Court is primarily a civil regulatory court. It is by reliance on civil and administrative remedies, rather than on criminal sanctions, that the aims of the *Environment Protection Act 1993* are achieved. The Government is committed to a greater reliance on civil enforcement than ever before, with the institution, from 1 July 2006, of civil penalties to be enforced by the Environment Protection Authority.

The ERD Court has a minor, incidental summary criminal jurisdiction like that of a Magistrates Court. In its criminal jurisdiction, the court may try and sentence summary or minor indictable environmental offences, and it shares this jurisdiction with the Magistrates Court. Environmental offences may be set down for hearing in the ERD Court or in the Magistrates Court.

For present purposes, offences are classified as summary or minor indictable offences in this way. Summary offences are those that have a maximum fine of no more than twice a Division 1 fine (i.e. no more than $120 000), and, if they have a penalty of imprisonment, it is for a maximum of two years or less. Minor indictable offences are those that are not punishable by imprisonment but have a maximum fine of more than twice a Division 1 fine (i.e. more than $120 000), or those for which the maximum term of imprisonment is no more than five years. A person charged with a minor indictable offence may elect to be tried by the District Court, and this will be by jury, but will otherwise be tried summarily.

Summary criminal courts, such as the Magistrates Court and the ERD Court, must sentence minor indictable offences as if they were summary offences. Limits are set for the sentence a summary court may impose for a minor indictable offence. The Magistrates Court may not sentence a person convicted of a minor indictable offence to more than two years imprisonment, or impose a fine of more than $150 000. The ERD Court, like the Magistrates Court, may not sentence a person convicted of a minor indictable offence to more than two years imprisonment. However, the maximum fine it may impose ($120 000) is slightly less than for the Magistrates Court.

Sometimes the maximum penalty prescribed for a minor indictable offence may be greater than the sentence limit of the summary court that hears submissions on sentence by a person convicted of that offence.

At present, only the Magistrates Court, and not the ERD Court, can do anything about this. If a magistrate thinks the offending merits a penalty that is higher than the Magistrates Court's sentence limit, he or she may remand the offender to the District Court for sentence. The District Court may then sentence the offender within the prescribed maximum penalty.

The ERD Court, by contrast, has no authority to remand the offender for sentence in the District Court. This means that people do not face the kinds of penalties Parliament intended if they are prosecuted in the ERD Court.

Aside from the ERD Court having a lower sentence limit than the Magistrates Court, and not having the Magistrates Court's ability to remand an offender for sentence in the District Court, there is another anomaly in the present system, and the Bill also deals with this. The anomaly is that a defendant to a minor indictable environmental charge that is brought in the ERD Court has no option of trial by jury, as would a defendant to any minor indictable charge brought in the Magistrates Court. In other words, a defendant to a minor indictable charge brought in the ERD Court is deprived, by the prosecutor's choice of forum, and for no reason of legal principle, of the right to choose to be tried by a jury and, in that case, to have the prosecution make a case to answer before the court decides whether to commit the case to the superior court for trial.

This anomaly is of most concern when the defendant is charged with a serious environmental offence. The most serious environmental offence in South Australia has a maximum penalty, for a corporate offender, of a fine of $2m, and, for a natural person, a fine of $500 000 or imprisonment for up to four years, or both. It is a minor indictable offence because it carries a maximum penalty of imprisonment that is less than five years. But by any other standard it is an extremely serious offence and a person convicted of it becomes liable to civil orders to:

- make good the damage;
- restore the environment;
- pay the costs incurred by public authorities in preventing or mitigating the environmental harm caused or making good any resulting damage;
- compensate for injury, loss or damage; or
- pay an amount equivalent to the economic benefit gained by the commission of the offence;

or any combination of these orders.

It is therefore particularly important that people accused of serious environmental offences should be given the standard procedural and evidential safeguards afforded to defendants to non-environmental criminal charges of equivalent seriousness. A defendant to a serious minor indictable environmental offence should have, at the very least, these standard entitlements:

- to be tried by a court that routinely tries criminal cases and is experienced in applying the rules of evidence and criminal procedure;
- to have the opportunity to be tried by a judge and jury;
- to be able to know the case against them before trial;
- to be able to ask the court to assess the strength of that case and say whether it should be answered; and
- to have the opportunity to be sentenced by a court that imposes sentences for a wide range of criminal conduct, including comparable criminal conduct.

It is not appropriate to give the ERD Court the powers and functions of a superior criminal trial court, because they are not necessary for a court that does not try major indictable offences and has such a small criminal workload.

The Bill provides a better solution in these amendments to the *Environment Resources and Development Court Act 1993*.

Summary and minor indictable environmental offences are to be brought in the ERD Court only. At present, the ERD Court has jurisdiction to try a charge of an offence conferred on it by the *Environment Resources and Development Court Act 1993* or any other Act, but the law allows those charges to be brought in either the Magistrates Court or the ERD Court.

The ERD Court is to continue to try offences summarily, as if a Magistrates Court. It will continue to operate, in its criminal jurisdiction, at the level of a Magistrates Court. Its criminal jurisdiction is to continue to be limited to summary and minor indictable environmental offences. Trials of these offences in the ERD Court will continue to be by an ERD Court judge, and, as now, the ERD Court may not empanel a jury. The procedures and evidentiary rules that apply to a summary criminal trial in the Magistrates Court will also apply to a summary criminal trial in the ERD Court.

A defendant to a charge of a minor indictable environmental offence may elect, before the ERD Court, for trial in the District Court. When a defendant to a charge of a minor indictable offence is committed for trial in the District Court, section 7(2) of the *Juries Act* prevents him or her opting for trial by judge alone. The new section 7(3b) of the *Environment and Resources Court Act 1993* spells this out. With the enactment of this section, the options for a defendant charged with a minor indictable environmental offence will be (a) trial by judge alone in the ERD Court or (b) trial by jury in the District Court. In this way the defendants to minor indictable

environmental offences will have the same entitlements as defendants to any other kind of minor indictable offence.

The ERD Court's power to impose a sentence for an environmental offence will remain the same as that of the Magistrates Court except that the fine limit is to be raised to $300 000. The ERD Court will continue to be restricted, like the Magistrates Court, to sentences of imprisonment of no more than 2 years, but may impose a greater fine than the present limit of $120 000.

The ERD Court may remand a defendant for sentence in the District Court if of the opinion that the sentence should be greater than its sentence limit permits. This means that the ERD Court may remand a defendant to a minor indictable offence to the District Court for sentence if it thinks the offending so serious that the offender should receive a greater penalty than two years imprisonment or $300 000 and the maximum penalty prescribed for the offence makes this possible. This gives the ERD Court a similar discretion to that of the Magistrates Court, albeit that its sentence limit will be higher. It allows appropriate penalties to be given by an appropriate court for serious environmental offending.

An appeal from a conviction or sentence for a minor indictable environmental offence by the ERD Court (where the defendant is tried summarily by a judge) will continue to be governed by section 30(4) of the *Environment Resources and Development Court Act 1993*. Section 30(4) gives parties to criminal proceedings in the ERD Court the same appeal rights as parties to a criminal action under the *Magistrates Court Act 1991*. The appeal will lie to a single judge of the Supreme Court. An appeal from a conviction or sentence for a minor indictable environmental offence by the District Court (where the defendant is tried by a jury) will continue to lie to the Full Court of the Supreme Court.

By increasing the sentencing capacity of the ERD Court and allowing it to remand defendants to the District Court for higher sentences, this Bill will further deter potential environmental offenders and punish appropriately those who do offend, and in the way that Parliament intended when setting high maximum penalties for the most serious minor indictable environmental offences. It will ensure that those charged with these serious offences have the same quality of justice as defendants to non-environmental offences.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Environment, Resources and Development Court Act 1993*

4—Amendment of section 7—Jurisdiction

This clause amends section 7 of the *Environment, Resources and Development Court Act 1993* to specify that the Court does not have jurisdiction in respect of major indictable offences and to provide that where jurisdiction is conferred on the Court in respect of a summary offence or a minor indictable offence, any proceedings for the offence must be commenced in the Court and will be dealt with in the same way as the Magistrates Court deals with such a charge. The monetary limit on the Court's jurisdiction in respect of indictable offences is increased to $300 000 (up from $120 000), with a power for the Court to remand a defendant to the District Court for sentence if, in any particular case, it is of the opinion that a sentence in excess of its jurisdictional limits should be imposed.

5—Amendment of section 15—Constitution of Court

This clause amends section 15 of the Act to provide that the Court must be constituted of a Judge if it is dealing with a charge of a minor indictable offence. If the Court is dealing with a charge of a summary offence, the current requirement that the Court be constituted either of a Judge or a magistrate continues to apply.

The Hon. T.J. STEPHENS secured the adjournment of the debate.

ADJOURNMENT

At 4.58 p.m. the council adjourned until Monday 5 June at 2.15 p.m.