LEGISLATIVE COUNCIL

Thursday 29 March 2007

The PRESIDENT (Hon. R.K. Sneath) took the chair at 11.2 a.m. and read prayers.

STANDING ORDERS SUSPENSION

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

That standing orders be so far suspended as to enable petitions, the tabling of papers and question time to be taken into consideration at 2.15 p.m.

Motion carried.

OPTOMETRY PRACTICE BILL

Adjourned debate on second reading.

(Continued from 13 March. Page 1579.)

The Hon. J.M.A. LENSINK: I rise to indicate Liberal Party support for this bill, which is yet another review of the Health Practitioners Act arising from competition principles. This bill has identical provisions as the previous health professional bills in relation to registration and protections for consumers in the areas such as illegal holding out as a registered person, disciplinary actions, inspections, the composition of the board, and so forth. The features that are unique to this piece of legislation, and issues that have arisen about which the Liberal Party has been contacted, include the deregulation of optical dispensers in South Australia. We have received correspondence from them, and part of that was read into the record by my colleague Vickie Chapman in another place. The Liberal Party is sympathetic to the issues but, given that in the other health professional acts these provisions mostly apply to those professions where there is some form of degree course qualification or higher, we are not inclined to amend the legislation at this stage.

There is also the issue of plano lenses, the cosmetic form of contact lens. As an occasional contact lens wearer myself, I am not sure why anyone would choose to wear lenses if they did not have to. That aside, lenses can cause significant damage to eyes if they are not monitored correctly, and therefore we support the measure that they should be brought under the legislation. There is also the issue of optometrists being able to prescribe therapeutic medications, for want of a better word, which we also support because they are appropriately qualified to undertake those measures. With these brief words, I indicate support for the bill.

The Hon. CAROLINE SCHAEFER: I rise to add a country experience to my colleague's speech. We are in favour of this bill, which gives some rights to optometrists to, as I understand it, prescribe minor eye drops and things like that to their patients, which will make it much easier for both them and their clients in the country. As it stands currently, very often the optometrist is the first person to see someone with a minor complaint. They then have to send them to a GP and there is often a long wait to prescribe whatever they have suggested in a letter to the GP. This bill will streamline optometry practices within country areas, and I am pleased to see its passage.

The Hon. G.E. GAGO (Minister for Environment and Conservation): I thank all members for their contributions to this debate and I look forward to its being dealt with expeditiously through the committee stage.

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

MOTOR VEHICLES (NATIONAL TRANSPORT COMMISSION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 14 March. Page 1663.)

The Hon. D.W. RIDGWAY: On behalf of the Liberal opposition, I indicate that we will be supporting what is a purely administrative bill. Formerly, the National Road Transport Commission recommended increases in heavy vehicle registration charges to the Australian Transport Council. The National Transport Commission has since replaced the National Road Transport Commission under the National Transport Commission Act 2003. The charges were set out in the commonwealth Road Transport Charges Act 1993, and it was amended with each increase. With the replacement of the National Road Transport Commission has come a change of policy in how national transport reforms are made available for each jurisdiction to implement. In keeping with this, the commonwealth will no longer amend the Australian Capital Territory Act, which will be repealed in due course.

This bill removes references to the Motor Vehicles Act, the commonwealth Road Transport Charges Act and the Australian Capital Territory Act 1993. Formerly, in South Australia charges were imposed under the Motor Vehicles Act by reference to the commonwealth act, so there was no need for continual alteration to the Motor Vehicles Act. Increases in charges agreed by the Australian Transport Council will now be presented as regulations under the National Transport Commission Act 2003. Each jurisdiction will reflect these increases in their own legislation—in the case of South Australia in the Motor Vehicles Regulations 1996. This is purely administrative and changes the mechanism by which South Australia will adopt changes in heavy vehicle registration.

The opposition has consulted with a number of stakeholders, including the South Australian Freight Council, the RAA and the South Australian Road Transport Association. None of these bodies has a problem with it and we have received comments such as, 'In our opinion this bill, as the opposition believes, is largely administrative.' They do not have any real comment on the bill. I commend it to the council.

The Hon. CARMEL ZOLLO (Minister for Road Safety): I thank members for their contributions to this bill. It changes the mechanism for the adoption of nationally agreed heavy vehicle registration charges. It is an administrative bill for administrative change. I look forward to its committee stage.

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

STATUTES AMENDMENT (AFFORDABLE HOUSING) BILL

Adjourned debate on second reading.

(Continued from 15 March. Page 1604.)

The Hon. M. PARNELL: I found this a particularly difficult bill to deal with, largely because it invites support on the basis of its name. Who can be against more affordable housing? It is something that we have discussed in this place previously. It has featured prominently in all manner of media, and the reason for that is quite clear: we are facing a crisis of housing affordability. Some of the indicators of that crisis are, for example, that average house prices relative to income have almost doubled in recent years.

The proportion of first home buyers in the marketplace has fallen by about a third, rates of housing stress have increased markedly (the number of people who are unable to meet their mortgage payments) and, most importantly in terms of this bill, opportunities to rent public housing have been decreasing. In my view, this bill represents a major shift in public policy for this state. To a certain extent, we are abandoning the traditional role, function and model of an independent housing trust, that is, a model that has served this state very well for many decades.

For that reason alone, I have been most surprised at the lack of public debate in this state over the major amendments to the Housing Trust. When this bill was introduced one person I sought to talk to was Hugh Stretton who, as members would know, has been a champion of the Housing Trust for many decades. His book, *Australia Fair*, should feature in all our libraries; it is worth reading. Compared to other states, South Australia, through the Housing Trust, historically has had a greater emphasis on government involvement in housing. The South Australian Housing Trust traditionally provided housing for low-income earners—not just housing of last resort but housing to blue collar workers in particular.

Public housing policies have been used in this state successfully over decades as a driver for population increase and economic growth. Whilst we might now have a debate about whether population increase is still in fact a desirable feature of this state, the fact is that, in past decades, public housing policy did drive population increase and economic growth. It was based, I think, on an understanding that housing needs to be very closely integrated with wider economic and social planning. The Housing Trust model has been highly successful and, most importantly, it has been a financially sound model.

It has led to higher rates of housing affordability in South Australia than anywhere else in the country. As members would be aware, in the 1970s and 1980s the South Australian Housing Trust borrowed heavily as the trust grew rapidly in its provision of public housing. That gives rise to a number of challenges today, the first of which is that much of the housing stock which dates from those earlier decades—from the 1950s even—is now outdated and requires refurbishment. Another emerging challenge is that the clientele of the Housing Trust is increasingly welfare dependent.

We are now looking less at servicing working families and individuals. The clientele is now dominated by welfare recipients and, in many cases, very long-term welfare recipients. Another challenge that has emerged is that, demographically within South Australia as in other places in Australia, we have seen many more single-person households. In fact, one of the things that planning students are taught in, probably, Planning 101 at university is that the increased demand for housing is not being driven specifically by a massive increase in South Australia's population, because that is not occurring. It is being driven by the smaller average household size.

That can come from families having fewer children, but it also comes from families being split and more houses being required for the same number of people. The traditional South Australian Housing Trust model is, to some extent, now out of step with current trends which focus on individual rather than community rights. The commonwealth is a key player in affordable housing, and its resources have been targeted increasingly to high-needs individuals rather than to communities, especially working communities. That has also been reflected in declining commonwealth support for the provision of social and public housing. We have also seen, at the commonwealth level, a shift to an emphasis on private rental support, in other words, helping people with their rental payments rather than helping them with their actual housing.

The government's response to these emerging trends is that a decision seems to have been made to no longer actively support broad public housing in the sense that we have seen it over recent decades. I have some sympathy with Minister Weatherill in this matter. I think he is stuck between a rock and a hard place, and I can see that he is trying to respond to national pressure, in particular, the decrease in commonwealth funding. It concerns me that the government's response is as radical as it seems to be in this bill and, for example, that it includes an end, effectively, to the model of independent statutory authorities governing public housing, such as the independent Housing Trust, the South Australian Community Housing Authority and the Aboriginal Housing Authority. The emphasis now appears to be to reduce the South Australian Housing Trust stock and to target the remaining stock to high-need, low-income, mainly welfare-dependent clients.

The stock of public housing in South Australia is going down. It has dropped from over 56 000 to 45 000 and, only last week, another 8 000 houses were to be taken out of that public stock. On the figures available to me, it seems that there are likely to be further reductions in stock so that we might get down to a figure as low as 20 000. Part of the government's policy appears to be transferring this public housing stock to housing associations and cooperatives, and I will have a bit more to say about those sectors later on. It seems to me that the government is effectively outsourcing responsibility for providing low-cost housing to the private sector. There is an emphasis on a number of public and private partnerships which are designed to generate affordable housing but it is, effectively, as the Hon. Stephen Wade says, a move to privatisation. I think there are some positive elements, and increased emphasis on community and cooperative housing has something to recommend it.

The justification for these policy shifts, as I said, is primarily the declining commonwealth financial support and, in particular, the Commonwealth-State Housing Agreement. The commonwealth approach is to give consumers rent assistance rather than to fund, through public housing, the capital costs necessary to increase housing stocks. The debt that we owe to the commonwealth is large, and the interest payments on that debt, as I understand it, can be as high as $70 million a year. However, we must always remember that, whilst the changes in the commonwealth funding might be driving this bill, the commonwealth is not the only source of funds. The state, through the budgetary process, does have an element of choice and, as a state, we can decide to allocate more of our state public funds to public housing.

The dominant ideology that is driving this debate, as I see it, is an obsession that all debt is bad; an obsession with the state not having any debt. Yet, one of the key thinkers in this

area, Prof. Julian Disney, the chair of the recent National Affordable Housing Summit, said, 'It's a bit like saying to people, 'Buy a house, but you can't have a mortgage'. The provision of housing and debt go hand in hand, and that is the case whether it is a private person buying a house or the public, through public funds, acquiring public housing. The government does have the capacity to borrow funds for public housing, and it has the capacity to borrow funds at a rate much lower than for individuals.

One of the questions that Hugh Stretton posed when we were talking about the dismantling, as it were, of the Housing Trust was, 'What's wrong with the government actively borrowing to obtain housing stock? Why is it that that is now seen as an untenable public policy position?' The State of South Australia 2006 Update on Housing report by Lionel Orchard and Kathy Arthurson states:

> The case for stronger, direct public role in new housing investment for lower income South Australians remains as strong as ever.

The authors go on to state:

> There is no clear sense that the impact of the new South Australian housing policy directions on the supply of low-income housing will be positive. The early signs will be marginal at best.

What I can see in this debate is that the absence of a lengthy, detailed and inclusive public debate means that we might be going down a path that we will regret later. I do not think that the case is made out, at this stage, for the measures in this bill.

The Greens believe that a creative government could preserve an independent South Australian Housing Trust which could have, as its focus, more than just high-needs clients. I think the minister is sympathetic and is genuinely trying to achieve more affordable housing, but I do have concerns that, if this bill goes through, once the South Australian Housing Trust is under direct government control, the trend of more privatisation and more divestment of public housing stock will continue.

The extent of market failure in the provision of public housing is considerable, and I do not think that this bill addresses those issues. Housing is one of the most basic of human needs and the importance of housing, as an issue, we say calls for direct and ongoing government intervention. The new model, as proposed by this bill, will mean a much reduced public capacity to respond to housing needs.

Having said that I am uncomfortable with the approach taken by this bill, what are the alternatives? We can look at land supply issues. There are certainly people out there—Bob Day is one prominent figure—who argue that it is purely an issue of supply and that more land must be released for housing. However, I strongly support the minister's rejection of that approach. If we want to live in Los Angeles, if we want urban sprawl that goes on forever, then we can move. That is not the future that the Greens want for Adelaide.

We also need to recognise that the affordability of housing is more than just the up-front cost of buying a house; there are also the running costs. We will shortly deal with another bill that relates to the real estate sector to which I will propose some amendments to try to improve the affordability of housing—in particular in relation to the energy costs of running a house as well as some of the hidden repairs and other things that first home-owners are often stuck with because they do not have adequate information when buying their first home.

The Greens believe that we need new resources and more investment in the public housing sector. I commend to members a report that was released recently by the Northern Territory branch of the organisation Shelter, which identified over 50 separate policy levers that could drive housing affordability—and dismantling public housing authorities was not one of them. I understand the government is exploring many of these alternative ideas, and I applaud it for that, but I think that debate should take place ahead of this debate about dismantling the Housing Trust and putting it under ministerial control.

In 2004 the National Summit on Housing Affordability, chaired by Julian Disney and entitled 'A Call to Action', emphasised three main aspects for housing affordability: first, we need more (not less) investment in public housing; secondly, we need better planning and development assessment laws; and, thirdly, we need to be smarter in the way we use government resources for affordable housing. I think that third point is important, because we have had a debate in this place on, for example, where public servants' superannuation funds are invested. I highlighted at that time that those funds have ended up in cigarette companies such as Altria/Philip Morris, with $164 million being invested in that company, and $230 million has been invested in Exxon Mobil, one of the great climate change sceptic companies around the globe. We do not necessarily see those funds being directed into more socially beneficial ends such as affordable housing.

The Victorian housing minister recently flagged that his government is proposing to offer incentives for superannuation funds to invest in social and community housing. That is a good initiative from Victoria. We are talking about huge sums of money as the funds in our superannuation buckets grow with a combination of both private investment and increased employer contributions. So, when we look at Funds SA and our public servants' and politicians' superannuation, we need to imagine taking out the $164 million being invested in a cigarette company and investing that sort of sum in innovative housing projects such as the City Edge project in the Australian Capital Territory, where affordable housing with environmental features is dominant in a mixed use development that is also profitable.

The Greens' position on this bill is that we acknowledge a number of the positive elements. The reference to innovation—in particular, the innovative use of covenants to drive affordable housing—is to be supported, and the increased role of the cooperative and community housing sector is also worthwhile. However, I believe those things can happen without the rest of this bill. We do not need to effectively demolish the South Australian Housing Trust to achieve those ends.

We are asked to take a fair bit of the promises in this bill on trust. The bill itself does not seem to me to guarantee the affordable housing outcomes that we want. I think a decision to abandon a public housing model that has worked so successfully in South Australia for many decades should not be taken lightly. I am also concerned that the loss of community voice in the cooperative sector through some rejigging of statutory authorities will lead to less community input. The Greens' position is that we think it would be prudent to wait until after the next federal election before proceeding with a bill such as this. If the opinion polls are anything to go by, we may well have a change of regime in Canberra. That is likely to lead to a change in the commonwealth-state funding agreement for housing, and the Labor Party in its pre-election commentary has talked about placing a greater emphasis on public housing.

So the Greens' position is that we do not believe there is a great rush to proceed with the changes in this bill. We would prefer the bill to be delayed until after the federal election. We are only talking a matter of months, it is not that far away. If it turns out that we have the same federal government in place or a different government with the same policies as the current government, then we can look at this bill again. However, I think it would be premature to push it through at this stage.

The Hon. A.L. EVANS: I rise on behalf of Family First to speak to this bill. Family First is genuinely concerned about the increasing number of families who are unable to afford a home. In his contribution to this bill, the Hon. Mr Wortley noted that the average cost of a house is now six to nine times the average annual income—one of the highest costs in the Western world. I note from the third annual International Housing Affordability Survey, released earlier this year, that Australia has 'the most pervasive housing affordability crisis' of the Western nations it surveyed. Recent SA Housing data also gives us a disturbing prediction that the majority of the so-called Generation Y (born between 1978 and 1988) will never own a home or have a mortgage.

As part of a raft of our 2006 election promises, Family First indicated that we would try our best to tackle the issue of housing affordability. Family First is particularly concerned that South Australia's high stamp duty rates make it hard for many young families to buy their first home. In our campaign this week, Family First is, therefore, focusing heavily on stamp duty as one of the primary factors affecting housing affordability. We can go back as far as 1979 and the Tonkin government, when act No. 66 provided that first homeowners did not need to pay stamp duty on a home valued at less than $30 000. This was partly a measure to kick-start the building industry but also it was designed, as the then premier noted in *Hansard* of 25 October 1979, to:

> . . . assist those who are faced with the expense of acquiring and furnishing their first home.

Of course, you could buy a modest home in 1979 for $30 000. When the value of property increased, so did the stamp duty exemption figures. In 1985, after noting the increasing value of real estate, in act No. 81 premier Bannon increased the stamp duty exempt figure from $30 000 to $50 000. In *Hansard* of 7 August 1985, he stated:

> The government's aim in amending the legislation in this respect is to bring about a situation in which anyone who has never been the owner-occupier of a dwelling. . . is eligible for the concession.

As Mr Olsen noted during the debate, the average price for a metropolitan home at that time was $81 894, and modest homes were generally available for $50 000. Finally, as the price of modest houses continued to rise, act No. 52 of 1989 increased the stamp duty exempt threshold to $80 000; and there it has remained ever since—for the past 18 years. You cannot buy a home for less than $80 000 any more, but the statute book is left with $80 000 as the official cost of a modest dwelling. Family First believes that stamp duty on family homes should be abolished (in accordance with the understanding when the GST was introduced), but we suggest that increasing the threshold figure would be a good first step.

If the government is unwilling to address some of the deficiencies in stamp duty so that young families can enter the private housing market, at least this bill will allow them to obtain government houses and community housing more effectively. Family First has been engaged in a significant number of community consultations regarding this bill. We particularly thank Graham Ross and Colin Zschech from the Inter-Church Housing Unit for giving us so many hours of their time in discussions and for their insight regarding this bill. We also thank Alice Lawson and Gabrielle Hummel for their official briefings, which were very informative.

The plain fact is that, in its current form, the Housing Trust is not working. For many years, only category 1 applicants can reliably bank on Housing Trust accommodation. Category 3 applicants no longer have any reliable prospect of being granted Housing Trust accommodation at all. Gary Storkey, the CEO of HomeStart, said that 'the Housing Trust as we know it is coming to an end'. He was quite right: the trust as we know it will now devote its attention solely to the most urgent category 1 cases, and less urgent cases are being effectively outsourced to the private sector.

Housing developers are being asked to put aside 15 per cent of developments for affordable and high need housing. We are told, in effect, that this means that houses costing between $135 000 and $200 000 should be made available in new developments and for people clearly designated by the Affordable Housing Trust. Family First is assured that appropriate measures will be put in place to ensure that developers do not snap up cheap properties. Further, much more weight will be placed on community housing organisations to pick up the slack. Groups such as the Inter-Church Housing Unit will be used increasingly to arrange accommodation for less urgent cases. Family First has been told that the new measures will provide approximately 1 000 new low income houses per year. At least, that is a rough target.

Another key aspect of this measures provides for a one-stop shop, where all inquiries regarding affordability or emergency housing can be dealt with under the one roof. We are already familiar with the one-stop shop approach which has transformed Australia Post and brought together various organisations under Services SA. Family First supports this measure. However, it remains concerned about clause 14 of the bill, particularly new section 21A(5), which provides a mechanism for variation or discharge of covenants between landowners and the Housing Trust. I have experience with community housing, given the work that Paradise Community Church used to do. The Inter-Church Housing Unit has also provided me with some detailed concerns.

During the committee stage, I understand that the Hon. Dennis Hood will discuss the proposed Family First amendment to clause 14, which is to insert new section 21A, subsection (5) which, in essence, provides that both the owner of the land and the South Australian Housing Trust must sign jointly a variation or discharge of a covenant over the relevant land. We seek to amend the provision in the current bill which asks only that the owners of the land be consulted prior to the trust varying or discharging a covenant. In any event, I will leave detailed discussion of our amendment for the committee stage, although I understand that some of our submissions and amendments have been distributed to members by my office. With these words, Family First indicates its general support for the bill, save and except for new section 21A(5), which we are unable to support.

The Hon. R.I. LUCAS (Leader of the Opposition): I rise to speak to the second reading. The shadow minister for housing in another place, in a most comprehensive fashion, has outlined the Liberal Party's concerns in respect of this legislation, and my colleague the Hon. Terry Stephens has

also outlined the concerns the Liberal Party has with the legislation. I do not propose to traverse all the ground that has been covered by those members.

I want to, similarly, follow one aspect of housing affordability—an aspect that our colleagues from Family First have also been pursuing—and that is the issue of state taxes and charges, including stamp duty; although not solely limited to stamp duty, but including stamp duty as well. I think the thousands of struggling home buyers in South Australia would have been outraged at the arrogant and out of touch comments on housing affordability made by the Rann government, in particular Treasurer Kevin Foley, only this month. In *The Australian* of 20 March this year, the Treasurer said:

> I don't agree with the argument that stamp duty is affecting housing affordability.

I will repeat that. The Treasurer of this state, an arrogant minister in an arrogant government, said that he does not agree with the argument—

The PRESIDENT: Order! The Hon. Mr Lucas might want to stick to the bill.

The Hon. R.I. LUCAS: I am sticking to the bill.

The PRESIDENT: I do not believe that that has anything to do with the bill.

The Hon. R.I. LUCAS: The Treasurer said:

> I don't agree with the argument that stamp duty is affecting housing affordability.

I think, sadly for South Australians, as the media is increasingly referring to the state's Treasurer, we have a playboy Treasurer who is spending more time attending A list parties and fashion parades rather than addressing the issues—

The Hon. P. HOLLOWAY: I rise on a point of order, Mr President. These comments by the Leader of the Opposition are totally out of order, and I ask you to suggest to him not only to desist but also withdraw those comments.

The PRESIDENT: The Hon. Mr Lucas will withdraw the comment referring to the Treasurer as a playboy.

The Hon. R.I. LUCAS: No, I will not.

The PRESIDENT: Well, I think the Hon. Mr Lucas ought to stick to the facts. He is only demeaning his own position with childish comments.

The Hon. R.I. LUCAS: The issue of housing affordability is inextricably bound with stamp duty and the cost of state government taxes and charges. The attitude of the Treasurer in particular—an arrogant, out of touch and incompetent Treasurer—in relation to these issues is highlighted by the statement that I put on the public record: that, in his view, and the government's view, he does not agree with the argument that stamp duty impacts on housing affordability. That is just palpable nonsense. As the Hon. Dennis Hood, the Hon. Andrew Evans and other members in this chamber have been highlighting for some time, a number of members of this chamber happen to disagree, and disagree strongly, with that particular position that has been put by, as I said, an increasingly arrogant Treasurer and government who are out of touch with the concerns of struggling house buyers, in particular first home buyers, here in South Australia.

The Hon. Andrew Evans has just highlighted some of the changes dating back to the Tonkin government of 1979 to 1982 in relation to stamp duty changes, but what I want to highlight is the more recent changes made by this government and this arrogant and out of touch Treasurer. In the 2002 budget—the very first budget after the state election—contrary to explicit promises Premier Rann and Treasurer Foley had given, this government increased significantly the stamp duty on property conveyances in its first budget. This government took the attitude that stamp duty rate increases of up to 25 per cent on property conveyances above $200 000 would not impact on the aspirations and hopes of young families and South Australians struggling to try to purchase their first home.

As I said, not only was that arrogant and out of touch but it was also completely contrary to specific commitments Mr Rann and Mr Foley gave prior to the 2002 election. Indeed, the attitude of the Premier and the Treasurer after the 2002 election, when they were challenged about these huge increases, was to indicate that the broken promises that the government had introduced in its 2002 budget would not hurt ordinary families but were designed to impact on wealthier families and more well-to-do families in the South Australian community.

I have highlighted on recent occasions how out of touch that particular statement was at the time, even more so now when the median house price is close to $300 000 in South Australia in suburbs such as Salisbury North, Hackham, Woodville and Klemzig. Median prices are anywhere between the high $200 000s and low $300 000s. For this Premier and Treasurer to be sticking to the view that their broken promise, their increase in stamp duty rates on property conveyances of up to 25 per cent, will not impact on housing affordability defies belief.

I seek leave to have incorporated in *Hansard* without my reading it a purely statistical table headed Interstate Stamp Duty Comparison.

Leave granted.

Interstate Stamp Duty Comparison

	Stamp duty $300 000 conveyance	First home buyers stamp duty—$300 000 conveyance—after concessions
SA	$11 330	$11 330
Vic.	$11 810	$6 810
NSW	$8 990	-
Qld	$3 000	-
WA	$10 700	$6 600
Tas.	$9 550	$5 550
NT	$12 150	$4 134
ACT	$9 500	$6 770

The Hon. R.I. LUCAS: This table looks at two particular examples. It looks at all the states and territories and at the stamp duty on a $300 000 conveyance. It shows that our stamp duty rate in South Australia is one of the highest in Australia. On a $300 000 conveyance, the highest is the Northern Territory at $12 150, and South Australia is just under that at $11 330. For the benefit of members, the lowest is Queensland at $3 000. So, a home buyer in South Australia, on a $300 000 conveyance (the median package at the moment) is paying almost four times as much stamp duty as the same home buyer in Queensland, for example.

The starker comparison in relation to this example is when one looks at the first home buyer, which is an issue being raised by Family First. As Family First would acknowledge, it was one of the first issues raised by the Liberal Party's Iain Evans last year, in what I think was his first major interview, when he talked about the need for stamp duty concessions for first home buyers in South Australia. What the table shows, when you look at a first home buyer stamp duty on a $300 000 conveyance after the concessions that are available—that is, a combination of concessions and in one state

(Victoria) a state-based payment or allowance—is that the comparisons are even more stark.

For a $300 000 home in South Australia, the first home buyer, who gets no assistance at all, pays $11 330, which is exactly the same as any other home buyer in the South Australian market. In every other state or territory, a first home buyer of a $300 000 home is paying approximately half that amount or less: in Victoria, it is $6 810; in New South Wales and Queensland, it is nothing; in Western Australia, it is $6 600; in Tasmania, $5 550; in the Northern Territory (which has the highest stamp duty rate for all home buyers), there is a concession, which drops it to $4 134; and in the ACT, $6 770.

So, the struggling home buyer in South Australia is paying just under $5 000 more than the next highest state (Victoria) and up to $11 300 more than some states, such as Queensland, as a first home buyer. What that demonstrates, as Family First has been highlighting in recent times, is that governments have not introduced the sort of assistance that is required to assist struggling individuals and families into their first home in South Australia. It has not been a policy plank of this government. I remind members that the Liberal Party went to the last election with a commitment to fund a $3 000 allowance or assistance package to first home buyers in South Australia, which would have dropped that stamp duty from $11 300 down to $8 300.

The Hon. R.D. Lawson interjecting:

The Hon. R.I. LUCAS: As the Hon. Mr Lawson says, a good policy. However, the party's position across the board was rejected. I suspected that it was not that particular policy that was being rejected. Nevertheless, the government was not prepared to either match that or, indeed, make any move to provide incentives to first home buyers in South Australia, and it is not surprising when you hear the Treasurer saying that he does not believe stamp duty is affecting housing affordability in South Australia. If that is the attitude of one of the leaders of the government, it is not surprising that they have not cottoned on to the fact that something needs to be done and that every other state and territory is doing something in a genuine endeavour to assist first home buyers into the market.

There is one issue the Hon. Mr Hood and the Hon. Mr Evans will probably pursue in the committee stage of the bill, whenever that occurs. I think it would make a lot of sense to establish from the government before the bill is finally considered what would be the cost to revenue of increasing the threshold to various levels. The Hon. Mr Hood and I have had some discussions, and I know he has in mind a range of potential policy planks. I think it would be sensible for the government to provide the committee with some information. The simple answer is that Revenue SA has that information available to it, and it can certainly provide to the committee an indication of whether a certain concession or threshold was to be changed,

To be fair to Revenue SA, we ought to be quite explicit about the various options the Hon. Mr Hood and others might be considering. I think it would be useful when we get to clause 1 of this bill to outline that, because I think there is some suggestion that the government might go into clause 1 and then adjourn the final consideration of the bill. It would certainly give the minister in charge of the bill the time to get that information from Revenue SA and to bring it back to the committee before we next debate the bill. I think that would be able to quantify for us the cost to revenue from any policy change that might be contemplated, right through to the one the Hon. Mr Evans is talking about, which is completely removing stamp duty for first home buyers.

I think one of the issues the Hon. Mr Evans and the Hon. Mr Hood will have to look at is whether that would apply to everyone, such as the 30 year old son or daughter of a rich South Australian, who is driving a Maserati and who is buying a $2 million property as their first home—do they deserve a stamp duty concession or is there some limit? I am sure Family First will be looking at the sort of parameters that ought to be put on the record, and, certainly, Revenue SA can provide information in response to any of those requests.

Finally, I want to put on the record some evidence of the changes that have occurred in our market here in South Australia as a result of the increases in stamp duty by this government and the lack of assistance for first home buyers. The Australian Bureau of Statistics housing market figures show that in South Australia first home buyers comprised 20 per cent of the total market in 2001. The most recent figures show that first home buyers now in 2006 comprise only 13 per cent of the total market. Since this government has come to power, with some of the changes it has introduced and other changes in the marketplace, we have moved from a situation where first home buyers were accounting for 20 per cent of the total housing market to being now only 13 per cent of the total market. How does that compare with interstate experience? I seek leave to have incorporated in *Hansard* without my reading it a purely statistical table on the percentage of first home buyers in the total market.

Leave granted.

	% of first home buyers in total market
SA	13
Vic.	20
NSW	18
Qld	18
WA	15
Tas.	16
NT	20
ACT	20

The Hon. R.I. LUCAS: As I have suggested, this table looks at all the states and territories and, on the most recent figures, at the percentage of first home buyers in the total market. The most recent figures in South Australia indicate that first home buyers comprise only 13 per cent of the total market, having declined from being 20 per cent. In Victoria first home buyers comprise 20 per cent of the housing market, New South Wales 18 per cent, Queensland 18 per cent, Western Australia 15 per cent, Tasmania 16 per cent, Northern Territory 20 per cent and the ACT 20 per cent. South Australia's experience, on the most recent figures, shows that first home buyers are the lowest percentage of the total housing market of any state or territory in the nation—13 per cent, compared with an average of between 18 and 20 per cent.

The government in its response needs to address why that is occurring. Why are first home buyers in South Australia struggling to purchase homes here to a degree where they are the worst represented in the nation in terms of penetration of the total market? I challenge the government and the minister to provide a response in this chamber on those figures. Why are we the worst in Australia? Why were we 20 per cent of the market before this government came to power and now first home buyers have declined to 13 per cent of the market? Some would say that it is because of the decisions an arrogant government has taken to ratchet up stamp duty rates on house purchases. Some would say that it is because the government

has ignored the fact of providing concessions and allowances to—

The Hon. R.P. Wortley: It's WorkChoices.

The Hon. R.I. LUCAS: In a struggling attempt to defend the indefensible, Mr Wortley is suggesting that it is something to do with WorkChoices. WorkChoices is a national policy and does not explain why South Australia's experience is much worse than any other state or territory, unless the Hon. Mr Wortley is suggesting that WorkChoices applies only to South Australia and not to other states and territories. It is a novel thought, but if that is his argument, let him defend that argument publicly.

It is important for the government to indicate in reply what are the reasons. If it does not agree with the proposition put by Family First and the Liberal Party, let us hear its explanation for why South Australia's experience for first home buyers is so much worse than any other state or territory. That was the only issue or aspect of the bill I wanted to address this afternoon. I can only urge government members, who might not be quite as arrogant as the Premier and Treasurer, in their caucus and forums to start putting pressure on these ministers who, after five years, are increasingly out of touch with the real world.

People have long moved out of their electorates in the northern and north-western suburbs into the leafier climes and have lost touch with the struggles and aspirations of first home buyers in the north and north-west. If there are any members of caucus left who have a semblance of recognition of the struggles of first home buyers and families with state government taxes and charges, please listen to the pleas of Family First and the Liberal Party and, starting with the coming budget, start providing assistance to struggling first home buyers here in South Australia.

The Hon. P. HOLLOWAY (Minister for Police): I thank members for their contribution to the debate on this statutes amendment bill, even though the contribution we just heard about stamp duty had little to do with the bill. As an aside, perhaps if the Leader of the Opposition is going to suggest these huge cuts in taxation he might care to say where they might be found.

The Hon. R.I. Lucas: Get rid of the tramway and opening bridges, get rid of two ministers, get rid of the 50 ministerial—

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: I am glad we heard those things, because the shadow treasurer is suggesting that we get rid of one-off capital expenditure items to fund ongoing expenditure in terms of reduced taxation. That is an incredibly appalling, incompetent statement from someone who aspires to be treasurer. Let us get on to what the bill is about.

While there seems to be agreement that something needs to be done to address housing affordability, it is clear that the causes of declining affordability are the subject of debate. The Productivity Commission in its first report into first home ownership, commissioned by the present federal government, observed that 'the dominant source of the widening escalation in price has been a general surge in demand above the normal increases associated with population income growth to which supply was inherently incapable of responding'. Much of the increase in housing prices during the recent boom can be explained by market fundamentals, especially cheaper and more available housing finance.

In a recent article in *The Weekend Australian* of March 17-18, on the issue of housing affordability, the views of Macquarie Bank analyst, Rory Robertson, are discussed. Mr Robertson recently conducted a study into housing affordability and concluded that, rather than land supply, the current squeeze has been caused by four main factors. Those factors include low interest rates leading into the property boom in the late 1990s, the halving of capital gains tax in 1999, high levels of immigration and the propensity of Australians to cluster in capital cities. As Mr Robertson acknowledges, the view that a low interest rate environment, coupled with easy finance options, has been a primary cause of poor affordability is also held by the former governor of the Reserve Bank Mr Ian Macfarlane, who said last August that the doubling of Australia's house prices in the past decade was almost entirely caused by increased borrowing capacity.

This bill is one part of the government's broader housing agenda that stems from the Housing Plan for South Australia. The bill will provide the legislative framework for stronger and effective governance to deliver the affordable housing objectives. However, it is important to recognise that the government is working at a national level, where housing, local government and planning ministers have endorsed a three-year work plan under the National Action on Affordable Housing.

In contributions to the debate on this bill some members raised concern about the role of the South Australian Housing Trust and the use of assets, including how the government will work in partnership with non-government providers. The Housing Trust will have a broader focus on affordable housing; and this will include the best use of its resources to deliver outcomes within a framework of value, demonstrating probity and accountability. Joint venture arrangements are not a new part of the SAHT's business. However, the bill provides a more enabling framework to work in partnership with others. This is essential to deliver affordable housing outcomes and to work with the community and private sector. This is important in our role to facilitate the 15 per cent affordable housing target and other projects with the NGO sector. Similarly, it is important that, with any partnerships into which the SAHT enters, the affordable housing outcomes are secured. Hence, the proposed amendment to include as a term of an agreement with another party the ability for the SAHT to require that an instrument of covenant be recognised on the title of the specified land.

The government acknowledges that in order to meet the affordable housing target for all new significant developments it will need to engage private and community partners. We are not asking them to create housing which is unmarketable: we want to shift a culture towards meeting the needs of the 40 to 60 per cent of households that are currently unable to access affordable housing. We are looking to develop these approaches in ways that do not adversely affect house prices elsewhere. In order to help with this, the government is seeking to work with local councils to examine assistance that may be provided through the planning system, such as density bonuses, but it is also examining other incentives such as direct subsidy and financing arrangements through government entities such as HomeStart Finance.

The proposed system in South Australia focuses on the removal of disincentives, creating new incentives and negotiating affordable housing outcomes. A local government kit has been released for comment and provides a framework for local government engagement and reform. Incorporating references to affordable housing in the Development Act 1993 will provide certainty for councils in implementing

affordable housing provisions in their local development plans. An amendment under the Housing and Urban Development Act enables the Minister for Housing to act as a referral body that will enable the certification of developments purporting to be affordable housing; that is, that the development is affordable and is linked to eligible buyers.

An important element of the proposed system is ensuring that any cash or in-kind subsidies generated for affordable housing are locked in for the long term; that is, the long-term stocks of affordable housing should be increased as opposed to the subsidies being captured by the first generation of buyers. Under the proposed planning policies, affordable housing will be those subject to an affordable housing agreement with a state agency or local council, thus securing agreed outcomes over time. The ability to register a statutory covenant is an important tool in securing the use of land for buildings for affordable housing purposes.

Concern was raised about the 5 per cent high-needs component being over specified and overly expensive. The intent of the 5 per cent is to provide for a greater spread of high-needs housing so that people can live in a greater variety of locations close to needed services and facilities. Consideration of the 5 per cent will be assessed based on the level of social housing in the area and the longer term affordability issues, such as proximity to services.

During his second reading contribution an honourable member raised a number of questions in relation to new section 21A of this bill. The questions were raised by him with the Inter Church Housing Unit (ICHU). The bill provides increased flexibility for the SAHT to enter into partnership with a range of groups to provide affordable housing and provides for a range of assistance measures that could be provided to these organisations. The amendment will enable the SAHT to use a statutory covenant when entering into an agreement with another party where assistance has been provided to the party by the SAHT to enable the purchase and/or development of properties. That party may be a community housing provider. However, it may also be used when the SAHT enters into other agreements, such as rent to buy programs or home ownership programs, with public, private or community organisations.

This tool will not be the only mechanism available to government in such arrangements. However, it will provide the SAHT with an additional tool to ensure that public funds are used for an agreed purpose. Any agreement which is developed by the SAHT and which requires the use of new section 21A and the placement of a covenant on the intended land will require agreement by all parties to a range of terms which may or may not include the length of time the covenant must remain on the land.

I note the Hon. Dennis Hood intends to move an amendment to new section 21A. The government believes that this is a sensible amendment and the government agrees with it. I thank him for drawing it to our intention and indicate that the government will support it. Finally, I understand it is the wish of the council that this bill be adjourned shortly after a couple of questions are asked in the committee stage; so we will resume debate on this bill when the parliament resumes later in April.

Bill read a second time.

In committee.

Clause 1.

The Hon. S.G. WADE: I remind the minister of a number of issues I raised in my second reading contribution in relation to disability housing, none of which were addressed in his summing up. Also, I want to ask some questions on notice. Since this chamber last considered this legislation, the government has made an announcement in relation to the Affordable Homes program. In that context, on 15 March the Minister for Disability was reported in *The Advertiser* as saying that the government will be introducing 12-month tenancy agreements and that all new tenants would be placed on 12-month probationary leases.

Currently, as I understand it, Housing Trust tenancies are for life and are terminated only if a tenant is no longer eligible or they are evicted. In this context, will all tenancies be for a fixed term or are fixed terms intended to be a punitive remedy? Will current tenants be subject to the proposed fixed-term tenancy? Will they be moved on to fixed-term tenancies or will they continue on life tenancies; and, if so, what guarantee of security would tenants have at the end of their leases? I am particularly concerned about people with a disability who often need stability in their housing environment to ensure that their housing situation is sustainable, whereas a person without a disability might readily be able to move from one rented accommodation to another.

Often people with a disability suffer greatly if their routine is disrupted. In this context, concerns were expressed to me by the mother of an adult with autism who felt that if she was asked to move out of her Housing Trust home it would totally destabilise the care that she is currently providing to her son. My final question relates to the South Australian Affordable Housing Trust. I am very keen that people with a disability have access not only to public or social housing but also that they are able to develop equity in their own homes. I ask the minister to advise the committee what strategies the South Australian Affordable Housing Trust will have to help people with disabilities to develop home equity?

The Hon. P. HOLLOWAY: I undertake to obtain answers for the honourable member. Perhaps it would be easier if we take them on notice and provide answers when we resume debate on this bill later in April, if the honourable member is happy with that.

Progress reported; committee to sit again.

MEMBER'S REMARKS

The PRESIDENT: Just before we proceed, during the debate there were reflections on the Treasurer that the Hon. Mr Lucas refused to withdraw. I would not like to think that the standing of the council had reached the stage where members reflect on others on a personal basis. Whether it be from reasons of envy, good management by the Treasurer of the state's finances or the fact that he is able to attract a very attractive and intelligent young lady, those are not reasons to make personal statements about other members. If the standard of the council is going to be like that it is very unfortunate. The tone has been set for the day by the fact that the Hon. Mr Lucas refused to withdraw the remark—and that disappoints me.

PUBLIC FINANCE AND AUDIT (REFUND OR RECOVERY OF SMALL AMOUNTS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 13 March. Page 1 559.)

The Hon. R.I. LUCAS (Leader of the Opposition): It would be useful, from our viewpoint, if the Leader of the Government could at least advise us what bills he wants to address this morning. We have been given a list from the government which does not include this bill. I am happy to speak to it, but it would be useful, in terms of processing the bills before us at the moment, to have a rough idea of where the leader is going. On behalf of Liberal members, I rise to support the second reading of this bill. The bill has been through the House of Assembly, so I do not propose to speak at length.

The Liberal Party has supported the reform. It is a modest reform as a result of concerns raised. I do not have all the notes at the moment, I must confess, but I think that it was around 2003-04 when, in his report, the Auditor-General raised concerns about underpayments and overpayments from companies and individuals to state government departments and agencies. I paraphrase, but the Auditor-General said that, while he understood the practices, nevertheless, the law was the law and, unless the law was changed, agencies would need to behave in a certain fashion. That certain fashion would have cost more money administratively than it was worth in terms of the underpayments and overpayments.

As the second reading explanation indicates, government agencies have for a number of years implemented a practice of administrative convenience involving the non-collection of small underpayments or non-refunding of small overpayments. The Auditor-General, having identified that and raising it with agencies, as I said (paraphrasing his reports), understood why it was going on but, nevertheless, said, 'Look, the law says you are required to refund small overpayments and you are required to collect small underpayments.' That is what this bill is doing.

We are told that the most common example of an underpayment is when taxpayers base the payment of a fee on forms with outdated fees from a previous financial year. A fee might have been $100 in one year and it has gone up by $2 through inflation and they have not caught up with that. They look at their cheque-butt from last year and they send off a fee of $100 which turns out to be $2 shy of what they should have paid. The agency then has to decide whether it is worth pursing that underpayment of $2 through the various processes that agencies have to pursue. The simple answer is that it is not worth all of the administrative costs, and they have not done it in the recent past—but that has been a problem. The passage of this legislation will now authorise what has been the practice. As I said, from the Liberal Party's viewpoint it is a sensible reform and we therefore support the second reading.

The Hon. P. HOLLOWAY (Minister for Police): I thank the Leader of the Opposition for his indications of support, and other members who I know will not speak in the debate but who have indicated their support for this bill.

Bill read a second time.

In committee.

Clause 1.

The Hon. R.I. LUCAS: I believe the minister does not have a Treasury officer to advise him and, on this last day, I do not want to unduly delay the proceedings of the committee. I have a question but I am happy to get an undertaking from the minister that he or the Treasurer will respond to it within a reasonable time frame. I think it is a relatively easy question.

In the briefings which we received some time ago, we were advised that the prescribed amount (which is the amount for overpayments and underpayments) was going to be set by regulation. We were told that it was going to be set at about $3. I seek an undertaking from the minister that he will directly (or through the Treasurer) provide a response as to what the government's intention is in relation to the prescribed amount that will be set by regulation. Is it, as we were advised informally, about $3 and, if not, what will it be?

The Hon. P. HOLLOWAY: I am happy to provide an undertaking to get that information for the Leader of the Opposition and to respond to him promptly.

Clause passed.

Remaining clauses (2 to 4) and title passed.

Bill reported without amendment; committee's report adopted.

Bill read a third time and passed.

CRIMINAL LAW (SENTENCING) (DANGEROUS OFFENDERS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 13 March. Page 1567.)

The Hon. R.D. LAWSON: I rise to indicate that the Liberal opposition will support the passage of this legislation, notwithstanding serious misgivings which we have about some of its elements. Traditionally, one of the significant functions of a minister's second reading explanation is to provide courts with some guidance as to the mischief to be addressed by the legislation and to have some better idea of the defect or deficiency in the law which currently exists that the amending bill was designed to overcome.

In other words, one of the important functions of a second reading explanation is to enable the courts and the community to better understand the loophole which is sought to be closed. I might say that this principle is not often resorted to by the courts because they take the view, quite properly, that the language used by parliament should be given effect to, and that the intentions of parliament are to be determined by what this parliament enacts, not what individual members or even ministers think they are enacting, or hope that they are enacting. That is really an aside.

The second reading explanation may be resorted to even where the words are ambiguous or their meaning is uncertain. This second reading explanation will be of no use to anybody. It is a piece of political propaganda. It is full of self-congratulatory hyperbole and it is typical of the approach adopted by this government to matters concerning the criminal law. It does not explain why the legislation is necessary; it does not point out that research has shown that similar legislation adopted in other places has been effective in improving the security of the community. It simply says that the Rann Labor government has found that these measures are 'popular and successful' law and order policies and then sets out the policy of the Australian Labor Party. What use that would be to anyone seeking to interpret this legislation absolutely escapes me.

Of course, the second reading explanation is full of the word that the Premier and his advisers have obviously heard from focus groups or whatever, that the public wants to hear that he is 'tough'. There are tough new measures, tough new this and tough new that; however, we never see the words, 'if proven to be effective'. These measures have not been proven to be effective; they are effective in one sense only, and that

is to garner votes. I believe that, especially in relation to criminal law matters, we ought not only be interested in the public's concerns—that is perfectly valid—but also understand the principles and enact legislation that actually does improve the safety of the community, that actually does reduce the rate of crime, and that actually serves to meet some social purpose for the community, not a political purpose of the government.

There are a number of elements in this bill. The first inserts another primary purpose into the Criminal Law (Sentencing) Act, and that primary purpose is to protect the safety of the community. Now, no-one would object to the protection of the community as a primary purpose of sentencing, but the fact is that this government has, on occasions, and because of the political exigencies of particular circumstances, decided that there has to be a number of other primary purposes. For example, when there was an outbreak of deliberately lit bushfires, the government decided it would toughen the penalties; the problem for the government was that the existing penalties for lighting a bushfire which might cause damage to property over $30 000 was life imprisonment. However, the Premier had already said that his government would toughen the penalties, so what did it do? It introduced a new offence altogether—the offence of deliberately lighting a bushfire—and made the maximum penalty for that 25 years. That is less than the existing maximum penalty, but because no-one else in other jurisdictions had so politicised the criminal law the government was able to say that it had the toughest penalty in Australia. Everyone in the community, and everyone in this parliament, would deplore those who deliberately light bushfires, and no-one would suggest that the courts should treat them leniently; however, the Premier, for political purposes, adopted the ploy I have just described.

The government also inserted into the Criminal Law (Sentencing) Act that a primary purpose of the criminal sentencing process was to protect the community from firelighters. So that is one primary purpose that has been introduced by this government, and here we have another one, that the primary purpose is to protect the safety of the community. What the proponents of this bill do not establish, and cannot establish, is that the existing judges are unmindful of the fact that the protection of the community is one of the primary purposes of the criminal sentencing process.

It is interesting to note, and the Law Society's Criminal Law Committee was critical of the fact, that the government did not set out the rationale behind this change, and I suggest that the unacknowledged and perhaps unwitting underlying purpose and rationale was to adopt a principle of Michel Foucault, one of the fathers of post-modernism. He pointed out that the whole shift of focus over the 20th century in the criminal justice system was a shift from punishing criminal conduct to regulating the potential danger inherent in individuals who engage in criminal conduct. In effect he says that there has been a trend to recognise the ineffectiveness of rehabilitation in penal methods and the futility of punishment itself as a deterrent to criminal behaviour and, on Foucault's view of the world, the traditional rationales for incarceration—for example, the denunciation of the offender and the offending behaviour, the rehabilitation of the offender, deterrents to others and punishment to the offender—are no longer relevant. What we are really seeking to do is protect the public whilst offenders are behind bars.

So the idea is to forget about notions of rehabilitation, notions of denunciation and deterrence, etc., because they are all futile. What we will do is put offenders behind bars where they cannot do harm to others or damage to property. If that is the rationale, it is a pity that the Rann government does not come out and say, 'That's exactly what we are doing.' Instead, it says that it is a popular and successful law and order agenda. This government does not acknowledge the shift that has taken place. It prefers the political hyperbole which appeals to an electorate.

We should not expect citizens to be penologists or criminologists, but they should not be patronised with the sort of drivel we see in this second reading speech and the rhetoric of, 'We are just going to be tough.' In other words, this is purely political window-dressing. It will not improve safety nor serve the proper purposes of criminal law. We do not believe that the addition of this further primary purpose will have any effect. Neither the Attorney-General nor anyone else has been able to point to anything that indicates that, as a result of this piece of window-dressing, there will be any change to the way in which individual sentences are handed down.

I mentioned incidentally that other primary purposes have already been inserted into the Criminal Law (Sentencing) Act. Because there is no definition of 'primary purpose', and because it simply has an ordinary meaning, it does not mean paramount purpose. We can be satisfied that it does not mean paramount purpose because in proposed new section 33A(7) the word 'paramount' is used in an entirely different context. When you use two different words in the same piece of legislation, the courts will always assume that parliament actually had two different meanings in mind. So, we can be satisfied that 'primary purpose' does not mean 'paramount purpose'. Of course, that subtlety will be lost on those people who do not make it their business to study legislation. It means that Mike Rann will be able to go out into the community and say, 'We have put the protection of the community as the primary purpose,' and he will not be picked up on the subtleties. However, once again, it is purely sleight of hand—the sort of sleight of hand we have become used to.

I turn next to the second important element in this legislation, namely, the introduction of mandatory minimum nonparole periods, and a new mandatory minimum nonparole period of 20 years will be inserted into the legislation, except when exceptional circumstances exist. A mandatory minimum nonparole period equal to four-fifths of the length of the head sentence is imposed for serious offences against the person, as defined. It is not acknowledged by this government that, rather than being a trailblazer in this field, it is in fact following a well-trodden path adopted in other states, and I will come to the legislation of other states when I deal with the subject of indeterminate detention for dangerous offenders.

What we are to have in South Australia is described as a mandatory minimum nonparole period of 20 years for murder. That sounds great to those who want mandatory minimum sentences but, of course, it is not actually delivering what it says to those people who think they are getting mandatory minimum sentences, because there is an out—and that out is that the court can impose a lesser period because of exceptional circumstances surrounding the offence. There has been some criticism of the fact that the exceptional circumstances are not defined in the legislation and that parliament is not actually sending a signal as to what might amount to exceptional circumstances. I do not see this as a major difficulty. The expression 'exceptional circumstances' appears in lots of pieces of legislation adopted by this

parliament, and it is not defined anywhere. That is because 'exceptional circumstances' is one of those indefinable, irreducible concepts. It is like 'reasonable doubt', in that when you seek to define it you actually limit it, and it is a concept of very wide meaning.

Let us take some of the existing judicial definitions. For example, in a case in 1999 in the United Kingdom and in relation to a provision in the Crime (Sentences) Act 1997 of that country, which provides that a life sentence be imposed where a person is convicted of a second serious offence, unless the court is of the opinion that there are exceptional circumstances which justify not doing so, Lord Chief Justice Bingham said:

> We must construe 'exceptional' as an ordinary, familiar English adjective, and not as a term of art. It describes a circumstance which is such as to form an exception, which is out of the ordinary course, or unusual, or special, or uncommon. To be exceptional, a circumstance need not be unique, or unprecedented, or very rare, but it cannot be one that is regularly, or routinely, or normally encountered.

I think that is the sense in which I would understand the term to be interpreted here.

I cite a more recent Australian case heard by Justice Morris in Victoria in 2001, the name of which will lead members to understand what the court was there dealing with. The name of the case is Re Application for Bail by Barbaro. Justice Morris said:

> It has been said that exceptional circumstances should not be defined; but, rather, one should examine the facts and see if those facts show the circumstances which are exceptional.

In New Zealand, a slightly different angle was placed on it by Justice Hammond in 1996. He points to the fact that the term 'exceptional circumstances' is never free from difficulty and that, as a matter of general approach, it is usually construed as meaning something like quite out of the ordinary.

I remind members that the term 'exceptional circumstances' also appears in the Agricultural and Veterinary Chemicals Act of this state, the Australian Road Rules, the District Court Act, the Magistrates Court Act, the Gaming Machines Act, the Fair Work Act, the Electoral Act, the Native Vegetation Act, the Nurses Act, the Radiation Protection and Control Regulations, the Rates and Land Tax Remission Regulations and the Residential Tenancies Act. So it is a common expression used in legislation in this state. I personally do not believe that it will give rise to difficulties, and one would hope that this provision will be wisely interpreted by the judges. I believe that we ought give judges a discretion in cases of this kind.

The expression 'exceptional circumstances' applies to what is described as the mandatory minimum non-parole period but in fact it is really the standard non-parole period of 20 years for murder, but it will also apply in relation to the four-fifths non-parole period in respect of serious offences.

The next series of provisions is those relating to dangerous offenders in proposed new division 3 of the Criminal Law Sentencing Act. I remind the council that this parliament has in recent times already inserted in the legislation a new division called Serious Repeat Offenders. That was done—I believe in 2003—to replace the old provisions relating to habitual criminals. So now we are introducing a new category of dangerous offenders, which includes those who have committed serious sexual offences, as defined.

We believe that this issue is open to objection, and we will be watching with great interest to see how these provisions pan out, because an offence committed by a so-called dangerous offender will be one which is committed in prescribed circumstances. Those prescribed circumstances are as follows:

> If, in the opinion of the Attorney-General—
>
> (i) the offence was committed in the course of deliberately and systematically inflicting severe pain on the victim; or
>
> (ii) there are reasonable grounds to believe that the offender also committed a serious sexual offence against or in relation to the victim in the course of, or as part of the events surrounding, the commission of the offence (whether or not the offender was also convicted of the serious sexual offence).

The unease we have about this provision is that the opinion of the Attorney-General is inserted as the defining element or the defining prescribed circumstances. It, as the Law Society Criminal Law Committee comments, is leading to the further politicisation of the criminal law. It is not if the court is satisfied on evidence that the circumstances are those defined but if the Attorney-General forms a view. It is not the Director of Public Prosecutions or some independent person who is required to act upon the evidence and whose decisions are reviewable, but the Attorney-General, as a political exercise—whether because of political pressure or whether it is because it is considered popular, etc. and will enhance the electoral popularity of the government—is given this function. That is a matter about which one must have misgivings, as we do.

It is also suggested that this new provision relating to dangerous offenders will apply to offences committed before or after the commencement of this legislation. It is suggested by the Law Society's Criminal Law Committee that this actually will mean, in effect, creating a retrospective offence. We do not accept that, because the particular conduct will have been committed at a time when the conduct was contrary to law and against the law and a serious offence—no doubt about that. What it is doing is retroactively changing the regime under which such a person may be dealt with—there is no escaping that fact—but it is not making illegal that which at the time it was committed was legal. Therefore, it is not, in the strictest sense, a retrospective offence.

The Hon. M. Parnell interjecting:

The Hon. R.D. LAWSON: There will be differing views about this. The Hon. Mr Parnell says that it is actually making it more illegal by increasing the penalty. The fact is—as we see it and as I think as the government sees it—that what is being done here is that, if at a time subsequent to the commission of the offence and the fixing of the penalty, the court is satisfied (ultimately, it will be a decision of the court) that the release of the person who is incarcerated at that particular time would compromise the safety of the community, that person can be kept in prison.

There is no doubt about it, this government has sought to make it part of its political platform that it is going to keep Bevan Spencer von Einem behind bars. This legislation is designed to create in the public mind a perception that the Rann government will keep a particular offender behind bars. The government already has the capacity to do that under the existing provisions. If the Parole Board at any time in the future were to recommend Mr von Einem's release—and I personally do not believe that is likely—and if that were to come before executive council, based upon what has happened I do not think any government (not only this government) would be inclined to accept that recommendation.

I do not believe there is much likelihood of such a recommendation being made, but in any event the government

already has the power—in relation to those prisoners who are sentenced to life imprisonment and whose release is recommended by the Parole Board—to accept or reject the recommendation. Other states have already adopted similar legislation, legislation that has been considered by the highest courts in this land, and it has been uphill from time to time. I will mention that legislation for the purpose of the record.

In New South Wales, the Crimes (Serious Sex Offenders) Act 2006 contains provisions for continuing detention and mandatory life sentences for certain offences. In Western Australia, the Sentencing Act 1995 deals with indefinite imprisonment, which a superior court may impose after an initial sentence has been imposed. In Queensland, the Dangerous Prisoners (Sexual Offenders) Act 2003 empowers the Attorney-General to apply for orders directing the indefinite detention of persons. We already have in South Australia serious sexual offenders legislation, which enables the court to order the indefinite detention of those who are unable or unwilling to control their sexual instincts.

Far from being trailblazers, as the government would have the public believe, we are following measures adopted in other states. I mention that these regimes have been considered in a number of decisions: in the High Court of Australia, for example, beginning with Chester v the Queen, a decision in 1998 dealing with the Western Australia provisions; in Victoria in 1998 with the case of the Queen v Moffatt, which upheld the validity of the legislation in that state; the High Court has also considered these matters in Magarey v the Queen, once again dealing with the Western Australian provisions; and, more recently, in Buckley v the Queen the High Court reaffirmed the capacity of state legislatures to impose measures of this kind, acknowledging as they do that sentences of this kind involve a departure from fundamental principles of proportionality. Bearing in mind the time and the fact that I have a couple of other additional remarks that I wish to make and that I wish to put on the record the views of the Law Society Criminal Law Committee, I seek leave to conclude my remarks later.

Leave granted.

[Sitting suspended from 1 to 2.17 p.m.]

TRAMLINE

A petition signed by 595 residents of South Australia, concerning environmental impacts of the proposed tramline extension and praying that the council will urge the government to revoke its decision to extend the tramline and request the Premier to instead delegate funds to projects of greater necessity, was presented by the Hon. D.W. Ridgway.

Petition received.

LAKE BONNEY

A petition signed by 396 residents of South Australia, concerning the construction of weirs at Lake Bonney and Wellington and praying that the council will do all in its power to support measures to obtain water for urban and agricultural purposes that do not disrupt the natural operations of the Murray River system, was presented by the Hon. Sandra Kanck.

Petition received.

GENETICALLY MODIFIED CROPS MANAGEMENT ACT

A petition signed by 123 residents of South Australia, concerning the Genetically Modified Crops Management Act 2004 and praying that the council will amend the Genetically Modified Crops Management Act 2004 to:

- extend South Australia's commercial GM crop ban until 2009;
- prohibit exemptions from the act, particularly the production of GM canola seed; and
- commission state-funded scientific research into GM organisms, health and environment, in close consultation with the South Australian public and other governments,

was presented by the Hon. M.C. Parnell.

Petition received.

CITIZEN'S RIGHT OF REPLY, BANHAM, Mr M.

The PRESIDENT: I have to advise that I have received correspondence dated 26 March 2007 from Mr Martin Banham, General Manager, Hillier Park, requesting a right of reply in accordance with the sessional standing orders passed by this council on 30 May 2006. Mr Banham wishes to 'clarify the adverse comments that affect our reputation and which were plainly inaccurate and/or misleading'. Following the procedures set out in the sessional standing order, I have given consideration to this matter and believe that it complies with the requirements of the sessional standing order. Therefore, I grant the request and direct that Mr Banham's reply be incorporated in *Hansard*.

1. 'Their (Hillier Park) homes are not in any way transportable, yet they find themselves with no title to them.'

Every one of the 276 resident-owned homes at Hillier Park was transported onto the Park and could be transported from the Park if their owners so chose and Hillier Park would impose no financial impediment to removal of the home. This has occurred on at least five occasions in the last 10 years. Residents own their own homes and retain title to them and can re-sell them on the open market. In fact, over the last 5 years, home sale prices have increased between 30-100 per cent. (LJ Hooker in Gawler could provide sales statistics if required). These two allegations are plainly untrue and misleading.

2. 'As I understand it, their properties are owned by an American religious group and the houses are owned by the individuals themselves.'

Hillier Park is not owned by an American religious group. Hillier Park is owned by 'The Emissaries (SA) Inc,' a South Australian incorporated religious association. The houses are owned by the residents themselves—see point 1 above. This statement is plainly untrue and misleading.

3. 'If they are at odds with management, they can be evicted, even though they own the houses in which they live.'

This statement is a slur on Hillier Park management's reputation and should be withdrawn. No resident has ever or could ever be evicted because they 'are at odds with management.' The Hillier Park residential agreement, clearly states that residents agree to abide by Park rules and they can only be evicted for 'serious or repeated non-compliance of Park rules.' Hillier Park would not be served in any way by indiscriminate evictions of rule-abiding residents. The only eviction under this clause in over 15 years was a serious case that had behavioural implications for the safety and well being of neighbours and that involved full co-operation of police services. This statement is also plainly untrue and misleading. *4. 'I understand that the … resident's representative committee is selected by the management and not elected by the residents.'*

Following some requests from residents, management initiated the Hillier Park Residents Committee in 1997. The residents committee is a democratically elected and representative committee of the residents of Hillier Park. Nominations are sought for a representative of each of the 5 areas every 2 years and if more than one nomination is received for an area, an election is held for that

position. No resident has ever been appointed to the committee by Management. Management meets with the residents committee once each month and takes and distributes minutes of those meetings on its behalf. This statement is plainly untrue and misleading.

5. 'I also understand … they are asked to carry their own public liability for any activities that take place in the (community) hall.'

The 'Hillier Park Social Club' is an incorporated association under the SA Incorporations Act. The Social Club has a turnover of between $20-40 000/year and they organise all the social activities in the Community Hall and some outings. The Social Club committee carries its own public liability insurance as do most Incorporated Association committees. As Hon Terry Stephens noted, the Park has provided many recreation facilities for resident's enjoyment including the Community Hall, two swimming pools, BBQ & undercover eating areas, extensive landscaping and a walking trail. This statement is misleading in that the Social Club is acting responsibly in carrying their own insurance. It is another slur on Hillier Park management by inferring that it should not be expecting Park residents to care for their own affairs.

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Police (Hon. P. Holloway)—

South Australian Film Commission—Report, 2005-06
Judges of the Supreme Court of South Australia—Report to the Attorney-General, 2006
Rules under Acts—
Fair Work Act—Forms

By the Minister for Environment and Conservation (Hon. G.E. Gago)—

Dog Fence Board—Report, 2005-06.

WORKERS REHABILITATION AND COMPENSATION SCHEME

The Hon. P. HOLLOWAY (Minister for Police): I lay on the table a copy of a ministerial statement on a review into the South Australian Workers Rehabilitation and Compensation Scheme made earlier today in another place by my colleague the Minister for Industrial Relations.

FAMILIES SA

The Hon. CAROLINE SCHAEFER: I seek leave to make a personal explanation.

Leave granted.

The Hon. CAROLINE SCHAEFER: This morning on the Bevan and Abraham show, minister Weatherill alleged that the Hon. Rob Lucas and the Hon. Nick Xenophon had resigned from the inquiry into Families SA. In his words:

It is very alarming that two of the most senior members of the Legislative Council have now chosen to say they are no longer going to participate in this inquiry.

Further along he said:

We have—all along we asked for one simple concession; that is the usual rules about having matters heard in camera should be allowed to be in place. They supported a proposition (that is, the Hon. Mr Lucas and the Hon. Mr Xenophon) that actually amended the usual rules and meant that those provisions were removed so that there aren't the usual protections. I think that's alarming, and I'm even more concerned now that two of the people who are more senior and perhaps have some capacity to control where this inquiry was going are no longer participating in it.

That is patently untrue. The committee has always had and will always have the ability to hear evidence in camera and off the record. I want to assure the people of South Australia that they will continue to have that right under this particular committee. I would also like to point out that I have extensive experience on committees and as a chair and that the Hon. Mr Lawson is a queen's counsel and a former attorney-general.

Honourable members: Hear, hear!

Members interjecting:

The PRESIDENT: Order! There were very few personal matters in that personal explanation, but we are being quite tolerant this afternoon.

QUESTION TIME

VICTOR HARBOR DEVELOPMENT

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make an explanation before asking the Leader of the Government a question on the subject of a Victor Harbor development.

Leave granted.

The Hon. R.I. LUCAS: The minister made a statement yesterday which was reported in the morning newspaper under the headline 'Backlash as Victor supersized' with a subheading comment, 'We've only seen a concept—never a development proposal' from the Victor Harbor city manager, Mr Graeme Maxwell. Without going through all of the detail, this is a major development, a proposed $250 million retail and community complex in or near Victor Harbor. *The Advertiser* article stated:

Urban Development and Planning Minister Paul Holloway said the scale of the project warranted major development status. That streamlined planning and approval processes by taking them out of the hands of local authorities.

My questions are:

1. Did the minister or the Premier receive any representations prior to the last state election in relation to this proposed development and, if so, who made those representations to the minister or the Premier, and what was the nature of those representations and responses from the minister and the Premier?

2. Since the election (this only relates now to the minister), what representations have been made to the minister in relation to this issue and, if representations were made in relation to the development, who made those representations to the minister and what was the nature of those representations?

The Hon. P. HOLLOWAY (Minister for Urban Development and Planning): Of course there were representations; how could there be a major development project if there was no application? That formal application was made fairly recently—about three or four weeks ago, I think—by Mr Ken Cooney and other members of the Makris Group along with the architects and a number of other consultants to the project (including environmental consultants). I recall being briefed early last year (I am not sure whether it was before or after the election) about the possibility of this project by members of the Makris Group in one of the regular discussions I have with all members of the development fraternity. Obviously I cannot speak for the Premier, but I was aware that this was being looked at some time ago. The formal request for it to be a major project was made not that long ago—from memory, it was about three or four weeks. I think that provides all the information required by the Leader of the Opposition.

The Hon. R.I. LUCAS: I have a supplementary question. Will the minister check his records and ascertain whether representations in relation to this proposed development were

first made to him prior to the last state election? If they were, who made those representations? I assume the minister will take on notice the questions directed to the Premier in relation to any representations regarding this development that were made to the Premier prior to the election.

The Hon. P. HOLLOWAY: I will take the part referring to the Premier on notice. However, as I said, I did have some informal discussions with members of the Makris Group about 12 months ago regarding a number of projects. I had discussions with them last year in relation to the Le Cornu site, and members would be well aware of that proposal, which the government rejected at the time because of the bulk of the project.

I will see what information is on my records but, as I said, they were not representations as such but purely a mention that this was one of the projects they were looking at. I get that sort of information from developers all the time; they tell me well in advance that they are looking at a project. However, I will have to check my records (if I have that information) to see exactly when it was. The point is that when something is declared a major project there has to be an application, and the first formal application in relation to that project was about two or three weeks ago.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: No; you do not. When you have an application for a major project it is obviously a formal application request that has the plans. Any information I received earlier was purely a courtesy to inform me that that was some of the work they were doing. As I said, I get that sort of information from developers all the time.

STORM DAMAGE

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Leader of the Government in this place a question about storm damage.

Leave granted.

The Hon. CAROLINE SCHAEFER: On 18, 19 and 20 January this year unprecedented storms were experienced in the areas of Cradock and Hawker. On 27 January *The Independent Weekly* published an Australia Day article entitled, 'The real heroes'. It began:

> After years of drought, SA drowned. Three towns and dozens of local communities suffered the worst flood in a generation. Seventy per cent of normal annual rainfall came down in a single day. Where the rain fell, South Australians rose to meet the challenge. These are the people who typify the spirit of a nation—not famous, not mentioned in the Australia Day honours—but heroes all.

There is then a series of articles on the various volunteers and heroes involved, including one hero, minister Paul Holloway. At the time—

Members interjecting:

The Hon. CAROLINE SCHAEFER: He is a modest hero. At the time, he was acting premier.

The Hon. R.I. Lucas interjecting:

The Hon. CAROLINE SCHAEFER: As my colleague says, he has much to be modest about. He is quoted extensively in this article. It continues:

> When he got word of the extent of the flood on Monday, he and staffer David Heath jumped in the car and drove to Port Augusta. From there it was by police four-wheel drive into the ranges. The government wanted to see with its own eyes what a flood like this can do.

The minister is quoted as saying:

> The damage is amazing. . . The first stop was at Cradock where the road, power lines, and huge river red gums had simply been uprooted and washed away.

Certainly, the damage that has been done there is amazing. It is estimated that over $600 000 worth of damage has been caused to private property, 31 properties have been damaged, and there is a lot of unreported damage. That estimate does not include damage to local government roads, etc. In the article, the minister goes on to say:

> There's the main roads, of course. We'll fix them up but it will cost millions. Then there are the dirt roads, the minor roads, which the local government will have to repair. and they haven't got a large rate base.

The article continues:

> The government will have to make many hard decisions about flood repair in the months ahead. Because of Paul Holloway's visit they're now more likely to be informed decisions.

My questions are:

1. What decisions have been made by government?
2. What actions have been taken?
3. Has the government allocated any extra funding to the storm affected area; if so, how much and by whom? If not, when can the people of the area expect to hear something from the government (because at this stage they have not heard anything)?
4. When can they expect any help?
5. Was the minister's advice to cabinet and his colleagues so clear that it made it unnecessary for the local member (the member for Giles) to visit for two months?

The Hon. P. HOLLOWAY (Minister for Police): That flood caused significant damage near Whyalla, where the member for Giles lives, and the damage was quite widespread. It was very nice of Hendrik Gout in his article to describe me as a hero, but the real heroes are the volunteers and others who responded immediately to that crisis. Although it was nice of Hendrik to describe me in that way, I certainly would not make any such claim. As I said, the real heroes are the volunteers.

There was significant damage, and it will cost many millions of dollars (perhaps tens of millions of dollars) in relation to roads and take many months to fix. I know that my colleague the Minister for Transport in another place is well aware of that. Temporary repair work was done over the first couple of weeks. As I understand it, that money will be spent in relation to some of those major roads over a significant period of time. I am happy to go back to my colleague to find out whether there is a better estimate of the damage. Certainly the culverts that were destroyed in some of the main creek crossings could cost up to $1 million each. I will seek that information.

In relation to local roads, it is my understanding that there are issues in the insurance fund that cover local government disasters, and I believe that that is likely to meet most of the costs in relation to that. As I said, as it is not directly within my portfolio, I will seek information from my colleague in relation to these issues and bring back an answer for the honourable member. Certainly, the devastation was significant.

Of course, sadly, there were some follow-up rains after the initial rain that further deteriorated the situation, particularly where temporary crossings had been made. There was also individual damage to some farms in relation to the construction of fences. At my request Primary Industries and Resources was trying to get a handle on the issue in relation to

some of the worst-affected landholders. I will seek information as to what follow-up was done in relation to it.

DP WORLD

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Police, as Leader of the Government in this chamber, a question about the Outer Harbor container terminal.

Leave granted.

The Hon. D.W. RIDGWAY: As members would know, I was absent during the last sitting week because I had the opportunity to visit a very interesting place known as Dubai. While in Dubai I had a number of meetings with a range of different industry groups and individuals. One particular meeting disturbed me. I met with the senior operations manager of DP World (the Dubai Ports Authority) in its boardroom in Dubai. As most members would know, Dubai Ports now owns the container terminal here in Adelaide.

Some 18 months ago Dubai Ports briefed both the opposition and the government about a potential acquisition of P&O. We were told that if it did so the company could be in breach of the act, which provides that a person or a company must not simultaneously have 'an interest in the container terminal at Outer Harbor, Port Adelaide, and an interest in the Port of Melbourne in Victoria that handles 25 per cent or more by mass of the container freight in that port; or in a container terminal in the Port of Fremantle, Western Australia, that annually handles 25 per cent by mass of the container freight in that port'.

Dubai Ports briefed both major parties some 18 months ago and said that this legislation would need to be changed because, with the acquisition of P&O, it would be in breach of it. Some 12 months ago—around the time of the election—that acquisition took place and Dubai Ports (or DP World, as it is known) acquired P&O and was then in breach of the act. It has been in negotiation with the government for some time over this legislative change, and when the Minister for Transport was in Dubai in January he gave the chief operations officer a guarantee that the legislation would be fixed up as soon as he got back in February.

To my knowledge, we are yet to see any legislation before the House of Assembly to fix this small problem. Dubai Ports is one of the biggest terminal port operators in the world. By way of explanation, it is one of the largest marine terminal operators in the world, with 42 marine terminals spanning 22 countries, and it has a dedicated and experienced professional team of more than 30 000 people to service its customers worldwide.

My questions are, first, why has the government taken so long to deliver this small legislative change to Dubai Ports? The reason it needs it is that it wants to invest $30 million in new container cranes at Outer Harbor but is not prepared to do so until this lazy government presents this legislation.

The PRESIDENT: Order! There is too much opinion in the question. The honourable member should know better.

The Hon. D.W. RIDGWAY: I beg your pardon, Mr President. Secondly, when will DP World see this legislation so it can make this significant investment in South Australia's future?

The Hon. P. HOLLOWAY (Minister for Police): I am certainly well aware of the scale of operations at Jebel Ali—which is the major port in Dubai—having visited it myself. I am very pleased that Dubai Ports is the operator of our container terminal because it is one of those organisations that believe in putting money in rather than, when it takes something over, cutting it down and slashing its operations. I will find out the fate of that legislation. I recall this matter being raised in cabinet some time ago. I know the Minister for Infrastructure has done his part in terms of having it drafted, and I assume that it is with parliamentary counsel, but I will get an update.

The Hon. D.W. Ridgway: That's right, blame someone else. Blame parliamentary counsel. That's a bit rough.

The Hon. P. HOLLOWAY: I am saying that I know that the Minister for Infrastructure raised this matter some time back, and I know that this is under way. I will get the information from him and bring it back to the council.

RECYCLING

The Hon. I.K. HUNTER: I seek leave to make a brief explanation before asking the Minister for Environment and Conservation a question about waste disposal.

Leave granted.

The Hon. I.K. HUNTER: Landfill is very obviously an old technological solution to waste disposal, but I suggest that gone are the days of out of sight, out of mind, because burying a problem only means we need to deal with it later. For many years we have been aware of the need to recycle household waste, and the kerbside schemes that most councils now employ are proof that the majority of South Australians are keen participants. But household waste makes up only one part of the significant contribution to our state's landfill sites. Will the minister inform the chamber of initiatives to reduce waste from other sectors ending up in landfill?

The Hon. G.E. GAGO (Minister for Environment and Conservation): I thank the honourable member for his important question. Recycling has many benefits, as we know. It reduces the need to source new raw materials and requires significantly less energy than producing new products, and also it makes us think about our consumption and the choices that we make in our daily lives. Household recycling is an important initiative, but it accounts for only a comparatively small proportion of waste in the big picture. Retailers are amongst the largest commercial users of waste facilities in South Australia. Obviously, there is a need to improve the recycling practices in that sector, and that is why today I released a practical guide advising retailers about how they can cut the amount of waste going to landfill.

Members interjecting:

The Hon. G.E. GAGO: I am very pleased that the opposition finds this so amusing. These issues go to the whole crux of the long-term sustainability of our environment. Recycling also assists to reduce greenhouse gas emissions, so I am glad members opposite are finding it so amusing.

The guide, produced by Zero Waste SA and developed in conjunction with the SA retail group and the State Retailers Association of South Australia, is now being sent to shopping centre managers, commercial property owners and individual retailers. When you consider the paper, plastics and packaging involved in running a business, it soon becomes obvious why we are now working closer with this group to improve recycling. In fact, shopping centres could reduce the amount of waste they send to landfill by two thirds just by recycling these goods. So, there are significant gains to be made.

The retail sector has already shown enthusiasm for reducing waste. Shopping centres and supermarkets are becoming more proactive in their environmental management

with their efforts to cut waste, reduce plastic bags, reduce water consumption and conserve energy. This guide encourages retailers to go a step further and work together to achieve group results, and it offers a number of case studies of local businesses and shopping centres that have set good examples. Team work is the key to a successful recycling strategy because shopping centres often include a large number of different businesses. As a result, centre-wide waste reduction programs can prove far more effective than each business working on strategies on its own.

Topics in the guide range from setting up green action groups to tips on waste reduction in the office, around the shopping centre, in retail shops and in construction and garden operations. Subjects also covered include: how to reduce unnecessary packaging, how to develop an environmental purchasing policy, and partnering with local councils and schools to promote and support environmental initiatives in the community. Zero Waste SA has set the target of a 30 per cent increase in the recovery and use of commercial and industrial materials by 2010, and this guide is an important step in realising this goal. The guide is being released at retail industry workshops being held today, and I welcome the collaboration with the various retail groups in developing this important resource.

The Hon. D.W. RIDGWAY: I have a supplementary question. Is the guide available electronically or is it presented to the groups in hard copy?

The Hon. G.E. GAGO: I am not absolutely sure of the format of this resource, but I am happy to get that information and bring back a response.

The Hon. D.W. RIDGWAY: I have a further supplementary question. If it is available in hard copy, is it done on recycled paper?

The Hon. G.E. GAGO: I will bring back a response to that question.

STAMP DUTY

The Hon. D.G.E. HOOD: I seek leave to make a brief explanation before asking the Minister for Environment and Conservation a question about stamp duty for zero carbon homes.

Leave granted.

The Hon. D.G.E. HOOD: Yesterday, my colleague the Hon. Andrew Evans outlined the comparison between stamp duty rates in this state with those in other states of Australia, in particular Queensland, and he called for more generosity from the Treasurer in lowering stamp duty rates in general in South Australia. Late last night we debated the Premier's climate change bill, and I note that we will be debating the bill again today.

The Hon. R.I. Lucas: Maybe.

The Hon. D.G.E. HOOD: Maybe; if we get to it. The Blair Labour government in the United Kingdom brought down its 2007 budget last week. This budget included a five-year window of stamp duty relief for new homes described as zero carbon homes. The proposed enabling regulations to be passed by the Blair government will require, as follows:

> . . . zero carbon emissions from all energy use in [these] home(s) over a year. To achieve this, the fabric of the home will be required to reach a very high energy efficiency standard and be able to provide on-site renewable heat and power.

The Blair Labour government zero carbon relief, which will be available only from 2007 to 2012, provides complete stamp duty relief for new homes purchased up to the value of some £500 000. For homes purchased above that price, stamp duty will be reduced by a flat £15 000. My questions are:

1. What is the minister's view of this proposal?

2. Will the minister request that the Treasurer consider this reform in the next budget or perhaps the budget after that?

3. Will the minister bring back a response as to her best estimate of the effect such a reform would have on South Australia's greenhouse gas emissions?

4. Would such zero carbon homes be eligible for carbon credits in a greenhouse trading scheme?

5. Does the minister believe such a reform would help or hinder housing affordability in South Australia?

The Hon. G.E. GAGO (Minister for Environment and Conservation): I thank the honourable member for his important questions. As I said in my response yesterday to a question about stamp duty, the responsibility for stamp duty falls under the portfolio responsibilities of the Treasurer. The matters the honourable member refers to relate to national emissions trading, which is also outside the purview of my portfolio responsibilities. I am happy to refer those questions to the relevant minister in another place and bring back a response. However, as I also said in my response yesterday, I am very supportive of any initiatives that assist in reducing emissions.

STORM DAMAGE

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Leader of the Government a question about storm damage.

Leave granted.

The Hon. J.S.L. DAWKINS: Members would be well aware of the significant storm damage that occurred in the Renmark district on 6 January this year. I visited the area two days later and was shocked to see the amount of damage to houses, sheds and particularly to row after row of vineyards and fruit trees, etc. I do note the element of state government assistance in the area following the storm, and the work done by volunteers to lift vines and other repair work was incredible.

The Renmark Paringa council has spent nearly $65 000 on the clean-up. It was hoped that this amount would be partially recovered through the state government's Local Government Disaster Fund. However, in an article in *The Murray Pioneer* of 27 March, Barry Hurst, the Chief Executive Officer of the Renmark Paringa council, is quoted as saying:

> . . . advice received from the Grants Commission for the disaster fund was that it would not support a request for funding from the council. '(The) criteria for funding support from the local government disaster fund does not support council gaining and funding and therefore an application will not be made to the fund', Mr Hurst stated in a council report. Mr Hurst said the council would now have to make allowances in its budget to make up for the substantial costs incurred during the storm clean up. 'In view of the level of expenditure incurred we will not be eligible for support from the disaster fund and consequently council's costs will need to come from our resources through a budget adjustment to projects or the final budget result', he stated. Mr Hurst said nearly $10 000 of the total cost of the clean up had been spent on reimbursing the refuse depot for storm victim dumping fees. Other costs were associated with council labour, farm machinery hire and contracted specialist equipment.

Will the minister confirm that the government will not reimburse the Renmark Paringa council for any costs incurred as a result of the freak storm?

The Hon. P. HOLLOWAY (Minister for Police): That is really a matter for, I assume, the Minister for Local Government, who would be responsible for this area.

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

The Hon. P. HOLLOWAY: If that is the case, I am not aware of those matters, as I am not the minister who has direct responsibility, but it is a reasonable question. If he says there was damage, I will refer the matter to the minister and undertake to bring back a response.

OPERATIONS ALCHEMY AND BUILDING WATCH

The Hon. B.V. FINNIGAN: I seek leave to make a brief explanation before asking the Minister for Police a question about South Australia Police's Operations Alchemy and Building Watch.

Leave granted.

The Hon. B.V. FINNIGAN: Emerging crime trends and arrests show that construction sites are becoming an easy target for the theft of general building materials and metals such as copper. Will the Minister explain how South Australia Police are responding to this, and has it had any success in reducing the incidence of these types of crimes?

The Hon. P. HOLLOWAY (Minister for Police): I thank the honourable member for his question and interest in this matter.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: The honourable member has a significant interest in ensuring that the state has a good law and order regime. While the strong rise in commodity prices on international markets is good news for our mining companies and explorers, it also has a down side. Recyclable metals such as copper, aluminium and brass appear to be an ideal target for thieves, especially from locations such as building sites and homes undergoing renovation. These types of crimes affect homeowners, the housing industry, scrap metal dealers and even electricity and water suppliers.

On 1 November last year SAPOL launched Operation Alchemy, aimed at reducing the theft of semi-precious metals across the state. The key to the operation was to have close cooperation between the police, the building industry and the community. People were encouraged to report to police any unusual activity on or near building sites, homes that are being renovated or existing homes, especially if it appeared that metal building materials were being removed. I am pleased to advise that results show that the incidence of semi-precious metal theft is showing a significant downward trend.

In February 2007, 129 incidences of semi-precious metal theft were reported, compared to 144 in January 2007, 138 in December 2006 and 228 in November 2006, when Operation Alchemy was launched. There were 11 apprehensions for semi-precious metal theft in February compared with four in January, nine in December and 22 in November. SAPOL continues to work with scrap metal dealers and associated businesses to make it as difficult as possible for stolen metals to be disposed of by offenders. In this regard the state government is also considering whether the relevant legislation for pawnbrokers and second-hand dealers needs tightening.

I also understand that the South Australia Police Building Watch initiative is having a positive effect, with the incidence of hot water service theft showing a steady decline since its launch in November 2006. Building Watch is a partnership between SAPOL, the Master Builders' Association and the Housing Industry Association and has added to SAPOL's stable of other 'watches', such as Neighbourhood Watch and School Watch. Building Watch has a range of strategies, such as:

- enhancing the police crime reporting system to allow the capture of accurate intelligence to deal with building site theft;
- improved flow of information between SAPOL and the building industry through the involvement of SAPOL Crime Reduction Section staff in seminars and training;
- regular contribution by Crime Reduction Section of articles on crime reduction in building industry publications; and
- promotion of Bank SA Crime Stoppers reward scheme within the building industry and the wider community with a focus on building site theft.

The Building Watch initiative also focuses on the theft of scrap metal from building sites similar to Operation Alchemy.

SAPOL is working with SA Water, ETSA Utilities and the building industry to develop strategies aimed at preventing this type of criminal activity. I congratulate everyone involved in both Operation Alchemy and Building Watch on these fantastic results. There is no doubt that we are fortunate in South Australia to have a well-resourced, dedicated and professional police force that continues to build on its successes in reducing crime throughout our communities.

HUTT STREET

The Hon. A.M. BRESSINGTON: I seek leave to make a brief explanation before asking the Minister for Mental Health and Substance Abuse a question about Hutt Street and drug use.

Leave granted.

The Hon. A.M. BRESSINGTON: Last Saturday's *Advertiser* published a story written by Mr Nick Henderson on the anti-social behaviour and public drug use and dealing occurring—

Members interjecting:

The Hon. A.M. BRESSINGTON: —yes, a very good story—in Hutt Street. On both Monday and Tuesday this week, Amanda Blair from FIVEaa picked this up on the radio. The Manager of the Hutt Street precinct, Mr Richard Abbott, and a senior person from the Hutt Street Centre all denied that this problem actually exists. The Minister for Mental Health and Substance Abuse made the statement in the article that she was unaware of any problems in the Hutt Street Centre. While these denials were made after the radio program, the transcript shows that this situation was raised on at least three occasions mid last year on FIVEaa by Mr Leon Byner.

The minister was included in those public discussions in July last year at which, in fact, Mr Abbott himself complained about the violence and anti-social behaviour. Since then I have received a number of letters and emails about this issue from residents and business owners around Hutt Street, as well as people who have simply been walking up the street and been exposed to this kind of behaviour. Also, I have received a signed statutory declaration stating that, around Christmas time last year, a sweep was done of the spare allotment near the Hutt Street Centre and 175 used syringes were found and collected. Three weeks after that another

sweep was done and approximately 278 used syringes were found in the allotment, where no-one knows this is going on.

Also, I have been informed that, over the past three days, there has been an increased police presence in the area. The Adelaide City Council has also taken an interest in this but, as a result of the police presence, the loiterers and drug users seem to have dispersed somewhat, which shows that a police presence does serve a purpose. My questions are:

1. How many needle and syringe programs exist in South Australia?

2. Is the minister aware of any other needle and syringe programs that attract public drug use and anti-social behaviour?

3. Will she conduct an assessment and evaluation of the social impact of needle and syringe programs and provide that evidence to this parliament?

4. With organisations such as the Hutt Street Centre (which conduct needle and syringe programs), what would the average level of state funding be for such organisations to provide that service?

5. What is the overall cost of needle and syringe programs to South Australian taxpayers?

The Hon. G.E. GAGO (Minister for Mental Health and Substance Abuse): I refer to my reported comment in relation to my not being aware of a problem related to the issue of drug use in the Hutt Street area. Indeed, problems in relation to that had not been brought to my attention, and I find it incredibly disturbing that honourable members from this council would observe first-hand practices of concern to them, particularly illegal practices, and, instead of reporting those instances to either me or the appropriate authority (which is the police), they went to the media. Neither of the honourable members, including—

The Hon. J.M.A. Lensink interjecting:

The Hon. G.E. GAGO: I will get to that. This is despicable behaviour which I have raised in the council before. The honourable member sits here sanctimoniously, talking about these poor wretched people with significant problems but did not report that problem to me or my office (neither honourable member did) or to the police, I believe, but I have not followed that through. That would have been the appropriate thing to do. If anyone witnesses illegal behaviour, they have a responsibility to report it to the appropriate authorities and not go to the media for some circus entertainment at the expense of these incredibly unfortunate people with serious problems. It is despicable behaviour.

I put on the record again that neither of those honourable members (who are on the front page of the paper looking remorseful, sorrowful and seriously upset) could bring it upon themselves to actually give me a ring or raise the issue with me personally.

An honourable member interjecting:

The Hon. G.E. GAGO: I will get to it, do not worry. In terms of the problem relating to drug use in the open in the Hutt Street area, the first time that problem became known to me was when I read about it in the paper. There were some previous behavioural problems reported some time go which I discussed on radio with Leon Byner and others. I think that was mid last year, but I am not absolutely sure. Those issues related to begging and other antisocial behaviour. At that time no-one raised with me the issue of drug use out on the street; that was a separate issue. In relation to drug use, as I said, that was not reported at that time.

In relation to media interest in the clean needle program operating in the Hutt Street Centre (a service operated by the Daughters of Charity of St Vincent de Paul for homeless people) and issues regarding public drug use within the Hutt Street vicinity, clean needle programs are established in areas of need and in services assessed by people most at risk of blood-borne diseases. Despite numerous research studies investigating the possibility of serious negative consequences, I am aware of no convincing evidence that clean needle programs increase illicit drug use. In 2004 a review of potential unintended negative consequences associated with clean needle programs found that the programs do not encourage—

The Hon. A.M. Bressington interjecting:

The Hon. G.E. GAGO: This is what the review found.

The Hon. A.M. Bressington interjecting:

The PRESIDENT: Order! The Hon. Ms Bressington will listen to the answer.

The Hon. G.E. GAGO: The truth hurts, does it not?

Members interjecting:

The Hon. G.E. GAGO: Do not worry, I will get to it all. Honourable members opposite would not want a comprehensive analysis to get in the way of a media performance, would they, Mr President? They would not want some comprehensive facts and figures to get in the way of a spectacular media circus event. They are just going to have to sit there and listen to the facts and figures. A 2004 review of potential unintended negative consequences associated with clean needle programs found the following:

- the programs do not encourage more frequent injection of drugs;
- they do not increase syringe lending to other injecting drug users;
- they do not increase recruitment of new injecting drug users;
- they do not increase social network formation;
- they do not increase transition from non-injecting drug use to injecting drug use; and
- they do not affect injecting drug users' motivation to reduce drug use.

According to the 2005 Australian Needle and Syringe Program Survey, the majority of injecting drug users in South Australia do not inject in public places and, according to the advice I have been given, there is no central area for self-administration of drugs or for drug dealing which is comparable to places like Kings Cross in Sydney. Needle and syringe programs can be important points of contact for the highly marginalised population of injecting drug users, as they provide education and referral to drug treatment, medical, legal and social services, and they are used to assist people with their broader drug user problems. Many needle and syringe program clients have never been in contact with other health or social services, so the programs provide a very important contact point for these people.

The Australian Needle and Syringe Program Survey found that the proportion of needle and syringe program clients who participated in drug treatment had increased from 2000 to 2004, and this is not a concern. As a government, we cannot prevent people from making the choice to inject drugs, but we can do everything possible to prevent the harms associated with injecting drug use and to limit the harm caused to the wider community. The Clean Needle Program is an important public health initiative aimed at reducing the spread of blood-borne viruses—including hepatitis B, hepatitis C and HIV. We know that the program helps to reduce the spread of blood-borne viruses amongst injecting drug users and also the

risk of blood-borne virus transmission to the broader community.

The CNP does not just hand out clean needles to injecting drug users; as I said, it also provides a range of other services to the community, including:

- education and information about safer injecting and the dangers of sharing injecting equipment, including needles;
- information about safe disposal practices, including a needle clean-up service;
- referrals to drug treatment services; and
- referrals to health, legal, social and other services.

National and international reviews have also reported the benefits of these sorts of programs.

In terms of funding, the Clean Needle programs in Australia are estimated to have saved between $2.4 billion and $7.7 billion in downstream health care costs in the 10 year period from 1991 to 2000—I repeat, between $2.4 billion and $7.7 billion in savings. Cost savings include the prevention of an estimated 25 000 HIV infections, 21 000 hepatitis C infections and 4 500 deaths attributed to HIV infections (Commonwealth Department of Health and Ageing, 2002). The effectiveness of the CNP is demonstrated by the program's success in controlling HIV amongst drug users. In Australia, injecting drug use accounts for approximately 4 per cent of new HIV diagnoses in comparison to the USA.

I think there was a question about the number of syringes distributed through the 72 South Australian community needle program sites (I think these are figures from the 2005-06 financial year), and I can advise that there were about 3.5 million needles. As to the proportion of the population reported to be injecting drugs in the past 12 months, I am very pleased to report that the number of injecting drug users has decreased from 0.6 per cent in 2001 to 0.4 per cent in 2004.

In relation to the question about the disposal of used injecting equipment, an integral component of the clean needle program is the safe and timely removal of injecting equipment from circulation. Just as the vast majority of people in general do not litter, most people who inject drugs dispose of their syringes responsibly and safely. However, when irresponsible behaviours do occur, a range of strategies is in place to help minimise the risk to the community. For example, sharps bins are located at each of the community needle exchange programs.

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: In addition, they are provided at most clean needle program pharmacy sites.

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: I was asked a question about the disposal of clean needles.

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: Sharps bins are provided at these sites, and it is important to note that there is a 24-hour needle clean-up line, which coordinates the collection of publicly discarded needles and syringes.

The Hon. A.M. BRESSINGTON: I have a supplementary question.

Members interjecting:

The PRESIDENT: Order! Before the honourable member's supplementary question, it is nice to see a past president, the Hon. Peter Dunn, and Sir Eric and Lady Neale in the gallery looking so healthy.

The Hon. A.M. BRESSINGTON: After that lengthy explanation by the minister, which did not actually answer any questions at all, will the minister conduct an assessment and evaluation of the social impact of needle and syringe programs and provide that evidence to this parliament?

The Hon. G.E. GAGO: I have answered that question. What I have done is outline the results of the analysis of data already available. For the benefit of the chamber, I am happy to go through that again very briefly. The 2004 review found that it does not encourage more frequent injection of drugs. Clean needle programs do not increase syringe lending to other injecting drug users. They do not increase the recruitment of new injecting—

The Hon. A.M. Bressington interjecting:

The PRESIDENT: Order! The Hon. Ms Bressington might want to listen to the answer.

The Hon. G.E. GAGO: She obviously did not listen the first time, Mr President, otherwise she would not have asked the same question again. This review also found that the clean needle program does not increase the recruitment of new injecting drug users, nor does it increase social network formation or increase the transmission from non-injecting drug use to injecting drug use, nor does it affect the motivation of drug users to reduce drug use.

The Hon. NICK XENOPHON: I have a supplementary question. Will the minister table the research she refers to in due course? Will she provide details of the number, extent and nature of the referrals from publicly funded needle programs to drug treatment services and, particularly, abstinence-based services?

The Hon. G.E. GAGO: I am happy to provide the details of that review and the other information as requested and bring back a response.

NATURAL RESOURCES MANAGEMENT

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Environment and Conservation questions about NRM levies.

Leave granted.

The Hon. T.J. STEPHENS: Recently, I raised an issue of significance in relation to Eyre Peninsula communities, that is, a proposal to increase the NRM levy to ratepayers. There has been massive opposition to the proposal from the Eyre Peninsula Local Government Association, local mayors, local councils and ratepayers in the region. Whyalla residents currently are asked to contribute a little more than $2 to the Eyre Peninsula NRM levy. However, my advice is that should the proposed increases be approved Whyalla ratepayers will be forced to pay more than an extra $50 per year. The levy would then be increased to match the rest of the region in 2008-09—which is currently $105. My questions are:

1. Will the minister advise the council what projects are related to Whyalla and why such a significant rise in the levy could be justified?

2. Does the minister agree with the member for Enfield's comment that 'if the boards think they will get a rubber stamp from the Natural Resources Committee they had better think again'?

3. What representations has the member for Giles made to the minister on this issue on behalf of the residents of Whyalla?

The Hon. G.E. GAGO (Minister for Environment and Conservation): I am very pleased to respond to the opposition's misunderstanding; in fact, it has failed to understand at all. I am very happy to explain it again. The regional NRM levy is not a new levy. It is a name for a contribution South Australian ratepayers have been making for many years. In most areas—

The Hon. D.W. Ridgway interjecting:

The Hon. G.E. GAGO: That is absolutely incorrect information—but I will get to that 600 per cent in a minute. The Hon. David Ridgway is wrong again. He should check his facts before he quotes figures that are incorrect. Anyway, I am happy to work through the issues one by one; I think I have enough time.

In most areas where there were previously catchment water management boards, ratepayers would pay a catchment levy, which was identified as a separate payment on their rate notices. In addition, in most parts of the state ratepayers have contributed to the cost of animal and plant and pest control through their general rate payments to local government. The level of animal and plant contributions varied, and currently there are some changes between councils in terms of their rates. The level of animal and plant contributions varied for different councils, and catchment levies varied for different catchment boards. Not all regions previously had catchment levies.

The boards, in determining how the levy quantum would be divided across councils for this financial year, have tried to maintain contributions as close as possible to what would previously have been paid. Some of the boards are considering plans to equalise their levy contributions across their region. That is still under discussion and consideration. This is in line with an integrated approach to natural resource management, which values all our resources—not just our water catchment.

The City of Whyalla is part of an Eyre Peninsula NRM region and, unlike other council areas in the region, the City of Whyalla was not part of the previous Eyre Peninsula catchment water management board area. For the City of Whyalla in 2006-07 a regional NRM levy replaces the animal and plant control contribution made by local councils from general rate revenue, while in the remaining council areas it also replaces previous catchment levy contributions paid to the former catchment water management board. Therefore, the City of Whyalla's contribution to the regional NRM levy for 2006-07 has been confined to the level of previous contribution for animal and plant control, adjusted by CPI of about 3 per cent.

The average levy amount that was paid by ratepayers in the City of Whyalla this year was $2.21 per household. I am aware that the Eyre Peninsula NRM board is proposing to raise the NRM levy that is distributed across the region more consistently. I have not yet made a decision on the levy proposal, and I will not pre-empt my consideration of the submission under the act. However, I can say what is involved in my contemplation when considering these levies.

As I explained yesterday, there is a very extensive and transparent consultation process that involves the NRM board and all appropriate stakeholders. That is then put into a plan, which comes to me. If the proposed rate of increase in the levy is above the CPI, it undergoes further scrutiny through the parliament's Natural Resources Committee. If that committee is not satisfied, it has to come back to parliament. So, members can see that this is a lengthy and transparent process that is involved in setting and finalising the NRM levies—and, as I have said, the levies for 2007-08 have not been finalised.

The sorts of things that need to be considered when looking at these levy arrangements are, obviously, the objects of the act, which are (I remind members) to promote sustainable and integrated management of the state's natural resources to make provision for the protection of the state's natural resources. These plans are about the long-term sustainability of our water and land management. They are essential for our children and our children's children. The priorities as outlined in the NRM plan that have been put forward by the Natural Resources Management Board and the outcomes from the community consultation are considered. I also receive advice from DWLBC.

I appreciate, and am aware, that local government councils and individuals in each region have very differing views, and I understand that, and they have different sector priorities in relation to NRM activities and relating to the levy. In circumstances such as this, there is obviously never going to be a unanimous position, but those issues that I have outlined will be weighed and very careful and thorough consideration given to them.

Again, any levy change, which also equates to the program of activity, is subject to: community consultation, including consultation with local councils; the decision of the minister, and I have outlined all the processes I go through to consider the matter very carefully; approval of the Natural Resources Committee of parliament; and, if the Natural Resources Committee objects, as I have outlined, it comes back to parliament. So, as you can see, Mr President, there are considerable checks and balances contained in the legislation for establishing appropriate and responsible natural resources management, including the plans and the levies.

In relation to Whyalla and the Eyre Peninsula Natural Resources Management Board proposals, they have reached my office but I have not seen them as yet. I have outlined all the things I will do and the steps the proposal will go through before any decision about the levy or the programs within that plan is made.

TOBACCO PRODUCTS REGULATION (SMOKING IN CARS) AMENDMENT BILL

The House of Assembly agreed to the bill without any amendment.

TOBACCO PRODUCTS REGULATION (MISCELLANEOUS OFFENCES) AMENDMENT BILL

The House of Assembly agreed to the bill with the amendment indicated by the following schedule, to which amendment the House of Assembly desires the concurrence of the Legislative Council:

Clause 15, page 4, lines 33 to 35—

Delete paragraphs (c) and (d) and insert:

(c) a person performing the duties of a teacher at a school attended by the child (whether or not such duties are being performed on the grounds of the school).

Consideration in committee.

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

That the House of Assembly's amendment be agreed to.

I have already raised these matters during the committee stage, but I am very happy to go through them again. This amendment relates to limiting the ability of teachers to confiscate cigarettes from minors. At the time of the debate, I raised with the opposition spokesperson the concern that the amendment put forward by the opposition would result in teachers having an open-ended ability at any time or place to confiscate cigarettes from schoolchildren. The amendment also left open the fact that any schoolteacher could confiscate cigarettes from any school student. The amendment that was agreed to by the Liberal opposition in the other place limited the scope of the ability to confiscate to persons performing the duties of a teacher at a school attended by the child, whether or not such duties are being performed on the grounds of the school.

Motion carried.

MOTOR VEHICLES (THIRD PARTY INSURANCE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 13 March. Page 1565).

The Hon. R.I. LUCAS (Leader of the Opposition): The Liberal Party supports the legislation. The bill seeks to amend the Motor Vehicles Act to exclude compulsory third party cover for acts of terrorism involving the use of a motor vehicle. We are told that the intention of the legislation is to reduce the financial risk to the state, because the state and the taxpayers guarantee the Compulsory Third Party Insurance (CTP) Fund. The government's contention, based on some legal advice, as I understand it, is that, potentially, in the event of a terrorist act, the CTP Fund may well be exposed to significant payouts which the fund, the government argues, was not intended to cover.

The legal advice we are told is not entirely clear, as is often the case. We are told that under the current provisions of the Motor Vehicles Act there is some uncertainty as to whether CTP claims could arise as a result of a terrorism event where that event involved the use of a motor vehicle. As is often the way, the government has indicated that in exercising caution it is wanting to cater for the potential circumstances should a particular set of circumstances arise and a decision was to go against it that the CTP fund would be exposed to significant payouts, for which it is not geared to provide.

The government has advised that a number of other states, but not all—New South Wales, Queensland and Tasmania—have passed similar legislation to exclude terrorism insurance cover from CTP policies in those jurisdictions. The government's advisers have also indicated to the opposition that the reinsurers of the Motor Accident Commission have not been able to provide unlimited coverage for terrorism acts and therefore alternative strategies have to be adopted, such as the passage of the legislation before the council.

In the discussions that my office had with the representatives of the government on this issue, a number of questions were raised and the government advisers provided some responses. Without going through all of them, I wish to place on the record some of the questions and responses so that the avid future readers of the passage of this legislation will at least be aware of the nature of the advice provided to the opposition in response to the questions we raised.

One of the matters we put to the government was for a copy of the legal advice the Motor Accident Commission had received in respect of this measure. In response, we were not given a copy of the legal advice but rather a summary. A letter from Mr Geoff Vogt, the Chief Executive Officer, dated 13 November 2006 stated:

Essentially the advice received—

(a) confirmed that the act in its current form does not preclude claims where death or injury is caused by terrorist acts involving the use of a motor vehicle; and,

(b) canvassed how tightly the legislation could be made and hence the extent of protection provided to the CTP fund. The amendment seeks to afford some protection to the fund from exposure to terrorist activities without casting the net too far.

I read that on to the record to indicate that it was a significantly paraphrased summary of the legal advice, but nevertheless that was all the opposition was provided with in relation to our original request. After receiving that advice we put a series of questions to the government's advisers in relation to the legislation and raised a number of questions about the legal advice and in relation to how the legislation was intended to operate.

I refer to the first issue we raised with the government's advisers—and we understand the advice was provided through the Treasurer's office but that the answers were provided by an officer of Crown Law rather than the Treasurer's office or the Motor Accident Commission officers. A further explanation states:

The bill excludes claims for death or bodily injury caused by an act of terrorism in circumstances where that death or bodily injury would, or might, otherwise be said to be 'caused by or arise out of' the use of a motor vehicle. The legislation needs to draw a line between injuries that should remain covered by the compulsory third party insurance scheme and injuries that really are a result of an act of terrorism and are to be excluded in the scheme. Obviously all sorts of complex factual circumstances may arise and the legislation needs to deal with all of those in a principled fashion. The bill has been drafted to fit in with the wording of our South Australian act and to draw that line by reference to the concept of causation, so that in any particular case the question for a court determining a claim will be whether, examining all of the facts of the case, the death or bodily injury was caused by a terrorist act or not.

I interpose to indicate that the question asked why the drafting of the clause in South Australia differed from the drafting in other states, in particular, Queensland and Tasmania, and this was the legal advice as to why it had been drafted differently in South Australia. The response continues:

If you take the approach of excluding death or injury where the motor vehicle 'itself' was used for the terrorist act, you may get some odd results, depending on how the courts view the provision. This could leave the fund at substantial risk. If, for example, a terrorist rigs a car up so that the petrol tanks will explode (making the car, in effect, a mobile bomb) and drives that into a crowd then that would be a situation where the car 'itself' was used for a terrorist act and therefore would come within the exclusion. On the other hand, if the terrorist just threw a bomb out of the window of the car into the crowd then it may be possible to say that the deaths or injuries arose out of the use of a motor vehicle but the motor vehicle 'itself' was not used for the terrorist act and therefore the liability was not excluded. Clearly this would be an odd result and could result in massive liability for the fund. In contrast, in both situations you can say that the deaths or injuries were 'caused by a terrorist act', so recovery from the fund would be prevented under the amendments before the house in both situations.

That is making it clear. The government is arguing that its legislation is drafted to cover both sets of hypothetical circumstances, that is, the more obvious one where the car

itself is a bomb and is driven into a crowd or a building, and the second set of circumstances where the car is used and the terrorist throws a bomb through the open window. The government's argument would appear to be that in other states, such as Queensland and Tasmania, that might not be excluded. It is the government's intention to exclude such a hypothetical set of circumstances here in South Australia.

We asked a question in relation to the starting date of the legislation, and the government's response was that the bill would commence on assent and would therefore apply only to acts occurring after assent. We then put a series of questions to the government in relation to a series of terrorist events. For example, a plane is flown into a building by a terrorist, the building breaks up and causes a vehicle to have an accident (to avoid pieces of the building falling onto the car) and injury arises to a driver or passenger. We asked whether CTP compensation would be payable in those circumstances once the bill passes? The response states:

> I stress that it is not possible to give definitive answers in the abstract to hypothetical situations. As highlighted before, the question of causation is one that very much turns on all the facts. In any case before a court, all relevant factors will be taken into account. This raises the question as to what would be the difference here between a motorist swerving to avoid falling debris from a terrorist attack, as opposed to say swerving to avoid another vehicle or pedestrian in 'normal' circumstances. In both cases, a court would look to a number of matters to determine what factors were relevant, such as the contribution of the motorist (i.e. inattention, state of intoxication, speed, vehicle condition), the behaviour of other road users, weather conditions and other matters relevant to the incident. I suggest in the case of the falling debris, the principles are the same. It might be that on a proper assessment of all the circumstances, the cause of the attack would be attributed to something other than the terrorist attack.

In that case, either under the present legislation or as amended, the injury would be covered under the act. It would only be where the facts pointed to a clear case of the terrorist act being the cause of the injury that the statutory exclusion would apply under the amendments.

What about where a plane is flown into a building by a terrorist and pieces of the building fall onto a car directly and injure the passenger or driver; that is, there is no crash—or is there? The government's reply is as follows:

> The act covers death or injury caused by or arising out of the use of a motor vehicle. The notion of a crash per se is not a requirement. There must be death or injury attributable to motor vehicle use. However, in the absence of any additional information of the type referred to in my answer to question 4, I suggest this is a case where causation is more likely to be traced to the terrorist act. In the event that the debris fell on a car that was underneath the building on a road, it seems likely that injuries would be covered under the act as it is presently drafted. However, under the amendment, section 99(3)(a) would deem the death or injury was not to be regarded as being caused by or as arising out of the use of a motor vehicle if the death or bodily injury was caused by a terrorist act.

I note at this stage that the government's legal adviser says the notion of a crash per se is not a requirement, and I accept the legal advice, but I do note that—and I am indebted to my staff here—the Motor Accident Commission website states, 'CTP insurance covers victims of crashes from personal injury.'

The questions that were directed to the Motor Accident Commission and, therefore, to government legal advisers were based on information taken from the Motor Accident Commission website. It would appear that the legal advice says that the notion of a crash is not a requirement under the legislation. I accept that legal advice. It may well be that the Motor Accident Commission needs to reconsider the summary on its website of what CTP insurance covers, as it states specifically, I am told, 'covers victims of crashes from personal injury'.

We put to the government a range of other questions along similar lines, but I do not intend to read all of those onto the public record. In general I think it is fair to say that the sort of principles the government advisers have outlined in responding to the first three questions were essentially applied to the various hypothetical situations we put to the government. In some cases they did not actually say on the balance of probabilities, but they argued that it is more likely or less likely that they would be covered. If members are interested in the nature of the government's legal advice and the responses to particular questions, I am happy to share that information with other members, but I do not intend to delay the proceedings this afternoon by reading all of the five or six pages onto the *Hansard* record. As I said, I think those three questions—

The Hon. Nick Xenophon: What's wrong with tabling it?

The Hon. R.I. LUCAS: I cannot really, at the moment, because it has my handwriting all over it. I am happy to share it with the Hon. Mr Xenophon and, indeed, other members, if I can just clean it up a bit. I will not read the rest of it onto the record. In conclusion, I indicate that the Liberal Party is supporting the legislation.

An issue has been raised in our internal party forums and also in another place about who will cover these victims if the CTP fund does not. That it is really a question for the government or governments, but one of the issues is that many other terrorist events occur which do not relate to motor vehicles directly or indirectly at all, and the issue of who covers the victims of those particular terrorist events is equally applicable in terms of the important point of principle.

I imagine certain benefits would apply, particularly at a federal level, in terms of disability pensions and a range of other payments like that, to victims of terrorist events. It is, of course, open to governments—both federal and state—whether it be through funds, special lotteries—and, indeed, the Hon. Mr Xenophon.

The Hon. Nick Xenophon: Let's hope we never need one!

The Hon. R.I. LUCAS: Yes; let's hope we never need one. So, whether it be through special lotteries (as we have discussed in this session) or ex gratia payments made by governments, these are issues that governments of the time will decide. However, whilst those matters are important, the Liberal Party's position (and I think it supports the government's in this) is that the CTP was not intended to provide for or resolve these difficult issues. They will remain difficult issues for governments—federal, state and local. I support the second reading.

The Hon. NICK XENOPHON: I too support the second reading of this bill. In a nutshell, the bill is an unfortunate necessity resulting from the reality that there are people in this world with evil in mind who will commit terrorist acts and, on occasions, use motor vehicles in perpetrating those acts. It is uncontested that the CTP scheme was never intended to cover these sorts of events, and we need to grapple with this, given its potential reality. That is why I support this bill.

I think a number of the matters raised by the Leader of the Opposition are quite pertinent as issues of causation, but I do not know whether through his advisers the minister will be

able to deal with those instances. For instance, there is the situation where, as a result of a terrorist attack, debris lands on the road and a vehicle swerving to avoid that debris collides with people who are killed or injured. Could the government confirm whether that would be excluded from the CTP scheme and whether it would be covered by this act? I guess it depends on whether it was a case of negligence, whether it was an unavoidable collision or a collision that could have been avoided by the exercise of due care on the part of the driver. I think the minister would understand that distinction.

Those are the sorts of things in which I am interested, and I would be grateful if the government could confirm that, for anyone who has been killed or injured as a result of a motor vehicle being used in this way, at the very least there will be victims of crime compensation payable. The $50 000 cap for that is just woefully inadequate in so many cases, when you consider that is basically economic loss for one year in terms of average weekly earnings. Those are the sorts of things that need to be dealt with as well as, in terms of the whole issue of reinsurance, whether the Motor Accident Commission was told, 'Look, you won't get any reinsurance at all', or, 'We could give you some limited cover for these types of events.' Was it a blanket refusal (as I expect it was), or was it prepared to give some limited cover in these circumstances? That interests me from the perspective of the way that insurers and reinsurers are dealing with these sorts of events.

With those few words I indicate that I support the second reading of the bill. This legislation is an unfortunate necessity, given what has happened in the world in the past few years.

The Hon. P. HOLLOWAY (Minister for Police): I thank the Leader of the Opposition and the Hon. Nick Xenophon for their contributions to the debate. The Hon. Nick Xenophon asked some questions that may be better addressed in the committee stage when we have the advisers here, but the latter question related to whether the CTP scheme had access to reinsurance in acts where terrorism was involved. Generally speaking, my advice is that there is some very limited amount of insurance available, and it has a high threshold in which it applies. It is also extremely costly. When the advisers are here during the committee stage, I am happy to follow that up and deal with it then. Again, I thank honourable members of the council for their indication of support for the second reading.

Bill read a second time.

In committee.

Clause 1.

The Hon. R.I. LUCAS: Will the government give some indication as to its intention in terms of the proclamation of the legislation?

The Hon. P. HOLLOWAY: My advice is that it is the government's intention to proclaim the bill as soon as possible.

Clause passed.

Clause 2.

The Hon. NICK XENOPHON: As to the interpretation, I think I put this scenario, which was alluded to by the Hon. Mr Lucas. There is debris on the road as a result of a terrorist act and, because of a vehicle avoiding that debris, there is a collision in which people are killed or injured. What happens if it is shown from a causation point of view that the driver of the vehicle could have avoided the collision (in other words, the driver was, in a sense, negligent) and an injury ensued, or if it is a case of an unavoidable collision because of the way the debris fell? There is a distinction between those cases—the unavoidable collision and where there may be some causal link but where it was not entirely the driver's fault in terms of a contributory negligence situation. What happens in those cases with respect to the application of this bill?

The Hon. P. HOLLOWAY: My advice is that, ultimately, those sorts of issues would be argued out in court. I am advised that this legislation has been written as best as possible to make it even-handed in relation to those matters. Clearly, in those sorts of marginal situations, ultimately the court would determine the cause of the accident.

The Hon. NICK XENOPHON: If a court finds that it is a fifty-fifty situation—that is, 50 per cent is due to the debris (and that would not be subject to a damages award) and 50 per cent is due to the negligence of the driver, because it could have been avoided, what would happen in those Would it mean that 50 per cent of the injuries would be covered under the CTP scheme? I know it is an unusual scenario, but these are things on which people go to the High Court. It would be useful to try to establish what would happen in those unusual situations—which are possible, given what has happened overseas.circumstances?

The Hon. P. HOLLOWAY: Without access to legal advice on this matter, our understanding is that, ultimately, it would be up to the court to determine whether the accident was due to a terrorist act. If it was, it would be out; if it was not due to a terrorist act, it would be covered. Presumably, the CTP or Motor Accident Commission would make the decision in the first instance and then it would be up to the court, ultimately, to determine whether or not the event was due to a terrorist act. If it determined it was, it would not be covered; otherwise, it would come under the terms of the scheme.

The Hon. R.I. LUCAS: I have had the advantage of reading legal advice on this specific question; and I have undertaken to give the Hon. Mr Xenophon a copy of the information. Hansard has my copy, so I am going from memory, but my recollection is that one of the three or four examples I read onto the record was specifically an example that related to the issue the Hon. Mr Xenophon has raised; that is, a plane smashes into a building and debris falls down. The terrorist act is not the driving of the car but, rather, the debris falling down and someone swerving to avoid the debris and there being an accident. Who is covered?

My summation, and my recollection of that legal advice, is that it is hypothetical. It is hard to work out. There is a range of issues, including the inattention of the driver and alcohol, and other sorts of things in relation to the driver, and there would be a balancing of all those factors, in addition to this new legislation. The legal advice provided to us for exactly the same question—which I am happy to share with the Hon. Mr Xenophon—said, 'We can't give you an answer. It would have to be determined by a court. These factors would have to be taken into account. If it could be directly traced to a terrorist act, it is excluded. If there is an argument there was inattention, or someone was drunk at the wheel and killed someone and they said they swerved, all those issues would be taken into account.' The Hon. Mr Xenophon's friends and colleagues would be active in arguing a case before a court of law in relation to those sorts of issues. The legal advice provided to me in relation to that question does not give a black and white answer. As the minister has

indicated, it just says that the courts would have to determine it.

The Hon. P. HOLLOWAY: I have a copy of the documents that were provided to the leader. I will table them and then they are available to anyone who wishes to look at them. I table those documents to save the time of the committee.

Clause passed.

Clause 3 and title passed.

Bill reported without amendment; committee's report adopted.

Bill read a third time and passed.

CLIMATE CHANGE AND GREENHOUSE EMISSIONS REDUCTION BILL

In committee.

(Continued from 28 March. Page 1819.)

Clause 10.

The Hon. R.I. LUCAS: Last evening the minister undertook to bring back an answer to a question in relation to revised greenhouse gas emissions for South Australia for 1990 and for the period through to 2004. To summarise the debate last night, evidently the state, through its officers, adjusts the Australian Greenhouse Office figures for 2004, and the committee was looking for the adjusted figures for 1990 through to 2004. I ask the minister whether she is in a position to provide members of the committee with an updated table which incorporates the state officers' estimates for greenhouse emissions.

The Hon. G.E. GAGO: The committee voted on the interim targets last night, and there is nothing remaining that requires that information at this time. The information that was requested is being prepared and, as indicated last night, we remain very happy to provide an officer's briefing. The government's bill is designed in a way to bring community and business along with government to achieve real change—responsible change—and, quite clearly, the opposition's approach to this legislation does not do this. Peter Vaughan, the CEO of Business SA, said on the ABC this morning that the state's business community says amendments to the climate change legislation approved in the upper house would cost jobs and lead to business closures. Peter Vaughan says that the government's original targets of reducing greenhouse gas emissions to 1990 levels by 2020 would be a stretch, but amended levels restricted by a further 20 per cent cannot be achieved without substantial costs to the business community. Mr Vaughan says that it is a classic case of politics ignoring the realities of the world. Mr Vaughan went on to say that to have an amendment which proposes a tougher regime than the government proposed in terms of greenhouse gas reductions completely ignores the reality of how that is going to be achieved and the cost of achieving that in business terms, which directly relates to employment. So, here we have political grandstanding while we are trying to bring in legislation to tackle climate change.

As I have said, we have a series of amendments before us, and those amendments do not rely on the information that was requested last night. I offered to provide the information, and I am happy to do that. As I have said, it has been prepared, and we are more than happy to have our officers provide a briefing. Clearly, opposition members are looking for an out. We can see they are desperately trying to back-track. However, there is an opportunity for us to finish this legislation today. The opposition should seize the moment to make history. Let's get on with this legislation.

The Hon. NICK XENOPHON: I wonder whether Mr Vaughan is aware that these are voluntary targets. I think Mr Vaughan has enough on his plate at the moment as a board member of WorkCover Corporation without lecturing us in this chamber about voluntary targets.

The Hon. R.I. LUCAS: I look forward to the response from the Hon. Mark Parnell and the Hon. Sandra Kanck on these issues. The response by the minister is a gross abuse of the processes of the Legislative Council and the committee stage. It is a nonsense for this minister to suggest that the committee does not require answers to the questions which were put last night, to which the minister agreed to provide answers.

The Hon. Sandra Kanck: Are we going to get them or not?

The Hon. R.I. LUCAS: No. The minister is refusing to provide answers to the questions that were put to her by members of this committee this afternoon. She is refusing to provide answers to the critical question: what is the level of greenhouse gas emissions as now calculated by the state office? Until yesterday, we were all told that the official figures were the Australian Greenhouse Office figures. We were all given tables from 1990 to 2004, which we were told before yesterday and during the debate were the official figures. We were also told that there were no more recent figures than 2004 and that they were the ones the state used. Then, all of a sudden, last night the government and the minister got themselves in a bind through their answers and started changing the figures by saying, 'Well, look, we actually adjust the figures in the state.' Members of the committee then asked the obvious question: 'Well, okay; you have adjusted the 2004 figures. What are the adjusted figures for all the previous years?' The first question was for 1990, and the subsequent questions were, 'Well, what about the figures between 1990 and 2004?'

If you are talking about reductions, you have to know from what. Is it 32.4 megatonnes, which is the Australian Greenhouse Office figure for 1990, or is it some new state-adjusted figure? As one of the members of the committee highlighted, the minister can change these figures. We need to know what the figure is. If you are going to talk about staying at the same level or reducing by 20, 25 or 30 per cent, what number are you starting from? What is the number? That is a simple question and a simple minister should be able to respond. How on earth can this committee proceed to a conclusion in relation to this legislation if a minister refuses to provide basic information such as that?

The minister says that we have considered that particular clause. This issue is inextricably bound in all provisions of the legislation. The minister is aware that there was the prospect of reconsideration of clause 5—a critical clause in this regard. As discussed last night, some members did not have the opportunity to test the provisions in relation to reduction. Let us not have this nonsense of saying that we have passed the clause where this is important, because we are going back to that clause. Even if we were not, this is important all the way through. I am interested in the response from other members of the committee, but as an individual it is impossible to be able to resolve this issue satisfactorily if the minister refuses to provide the answers to the questions put to her.

The Hon. SANDRA KANCK: I was somewhat amused to hear the minister invoking Business SA's name as proof

that what was done here in this chamber last night was the wrong thing to do. I remind members that Business SA actively and strongly backed the sale of ETSA. It said that its members would all be better off and a few years later it came back to the parliament, cap in hand, asking for various protections and revisions because it did not work out. Its capacity to judge these sort of things is very limited. I am concerned that the minister is still not making available that information.

I do not want to delay the bill too much further. I was successful in getting in an amendment last night about the minister having to provide a report to the parliament about determinations or setting targets. It is not all that we wanted, but at least finding out after the event how they got there might assist the parliament and the public to work out what has happened and enable us to put pressure on the government. I understand it is after the event, but it is better than where we started. I express huge disappointment that the minister is not willing to provide us with that information. Clearly she has it and was able to provide figures to us last night, so she must have something in writing. Why she refuses to give it to us, I do not know. I would like her to explain her reasons for not giving it to us. What is wrong with transparency?

The Hon. R.I. Lucas: There's a huge row going on between the Premier's officers.

The CHAIRMAN: Order!

The Hon. M. PARNELL: If the minister is not prepared to answer, I will proceed. Like other members I am disappointed that we do not have answers to these questions. Given that the entire basis or the linchpin of this legislation is percentage reductions in greenhouse gas emissions from 1990 levels, it is quite astounding that we do not have the science or the figures more developed than has been presented to us as pretty much back-of-envelope stuff. It smacks of being made up on the run. I have accepted that this bill does not contain the number, the target. I am not entirely satisfied with that, but I have accepted that that is the way it will proceed. The cynical side of me says that when the targets are set, as the minister may do under clause 5, there will be a certain amount of spin on it.

I accept that there is an obligation to calculate these figures consistent with best national and international practice, but I still think that the object of the exercise will be to make the least amount of effort look as if we are doing more than we are. I am disappointed that we do not have more solid figures. I am quite surprised that we have progressed the bill to this stage given that we have been calculating greenhouse gas figures since 1990 on the basis of some science or other, yet the minister was not in a position to speak with any more authority last night about what the number might be other than to say that it will be based on those Australian Greenhouse Office figures.

I make a brief comment in relation to the fairly predictable Business SA line today. One of the great disappointments about that response is that it is trying to portray this debate as the classic old-fashioned jobs versus the environment. It is a line that gets trotted out all the time. When anyone wants to make some improvement to the environment, the line comes out, 'It will cost us jobs and money.' It is a load of rubbish. If this is handled properly, we are talking about job creation and opportunities in this state in the renewable sector, in the energy efficiency sector and in the exporting of technology and skills through Australia and around the world.

This is a business opportunity, yet all Business SA can see is the cost. I reject absolutely the fact that we must have a simplistic analysis that says that, if it costs us anything to take any measures to limit our greenhouse gas reductions, it is unacceptable from a public policy point of view. Are we to ignore the comments of the Premier, Sir Nicholas Stern, David Suzuki, Al Gore and all these prominent and well-qualified people? The future of the planet is at stake, yet local business leaders are saying that it is not in South Australia's interests to do anything to help this planetary problem. I reject that call. Having said that, I am now ready to proceed with this bill. I am keen, too, for this bill to pass before we leave today.

The Hon. R.I. LUCAS: The government, obviously, intends to stick by its decision and not provide the answers to the questions, and I record my strong objection to that. My understanding of the reason for that is that the Premier and his advisers have been most displeased with the performance of the minister and the advisers in this chamber in relation to the legislation. My understanding is that the answers that were provided last night to the committee were so wrong that this morning when the government advisers were endeavouring to do the calculations it was impossible to reconcile the answers the minister gave last night to this chamber with the information that was going to be provided.

The strategic decision the Premier has taken is to cut his losses and refuse to provide any further answers, because, if he provides any further information via the minister, it will further contradict the answers that were given in this place last evening. The government's strategic decision is to cut its losses and refuse to provide any further information because it knows that that information will be revealed. Be assured that that information will eventually come out. Whether it is by way of FOI or leaked material it will come out and, when it does, it will indicate that the information given by the minister last evening was wrong—and demonstrably wrong.

That is why the government and the minister are refusing to provide answers this afternoon. They want the legislation to go through in the dying hours of the parliament. Well, I guess it will depend on whether they accept the significant improvements to the legislation. They want the legislation to be finally considered by the Legislative Council, but they do not want to provide that further information and they want to avoid the complications that will ensue as a result of that information being provided.

The Hon. D.W. RIDGWAY: I have a point of clarification for the minister. I have a press release issued by the Premier on 31 March 2005 (two years ago tomorrow) entitled 'States lead the way on cutting greenhouse gases', which states:

> This is one of the most terrifying and important issues facing our nation and the world. We must in 2005 give the same kind of focus and attention to climate change that we have been giving to the worldwide threat of terrorism.

As the minister is not providing these figures today, is the government saying that, over the past two years, it has not done the calculations and adjusted the figures from 1990 through to 2004? That is two years.

The Hon. G.E. GAGO: The opposition put forward its targets and so, too, did the other minor parties without the information that was requested last night. Obviously, when they put forward their targets they were confident enough, had enough information at hand, to inflict a completely irresponsible interim target on South Australia. They went ahead and got their interim target up, and now we know that

today they are having a very bad day—a very bad day, indeed. We know that the business community is absolutely deserting them in droves.

They are hung out to dry with an irresponsible and unachievable interim target. We know they are being deserted in droves because the results of a poll released today indicates that the ALP two-party preferred vote has increased from 58 to 61; and, of course, we see the Liberals plummeting down to 39. They are being deserted in droves. They are feeling very uncomfortable today. If the opposition leader wants to personally abuse me, well, so be it. We know that this is probably one of his swan songs. He is going out and leaving South Australians with an interim target that is irresponsible and unachievable. Basically, they have dislocated themselves not only from the general public but also from their traditional supporters—members of the business sector—who are absolutely furious with them. They are, indeed, having a very bad day today.

I will put on record that, as I have stated, I am not refusing to give the information. I have not refused; I am not unwilling—I hope Hansard are getting this loud and clear. I have not refused and I am not unwilling. What I have said is that the information that was requested is being prepared and we remain very happy to provide an officer's briefing, as promised. I think that needs to go on the record.

Basically, the other information that was clarified as being available was put on the record yesterday, so I do not believe there is any point going over that. I have said the information requested will be provided. We have an opportunity to move on and I believe we should avail ourselves of that opportunity. Clearly opposition members are looking for every excuse possible to backtrack. They are trying to get out of this terrible mess they have gotten themselves into. They had their opportunity last night; they have now backed themselves into an untenable position. The rest of the bill is before us and we have an opportunity to complete it. I invite and challenge members to move forward and let us get the job done.

Honourable members: Hear, hear!

The Hon. R.I. LUCAS: Will the minister indicate when the information which is being prepared will be provided and when the briefing will be provided to members?

The Hon. G.E. GAGO: As soon as possible.

The Hon. R.I. LUCAS: Will that be before the passage of the legislation or after?

The Hon. G.E. GAGO: As soon as possible.

The Hon. M. PARNELL: Amendment No. 20 in my name is to clause 10 and it is consequential on earlier amendments that were defeated, so I do not propose to proceed with that.

Clause passed.

Clause 11.

The Hon. SANDRA KANCK: I move:

Page 10, after line 25—
Insert:

(iii) the impact of costs associated with addressing climate change and the effects of climate change on disadvantaged or vulnerable groups within the community; and

Clause 11 is about the functions of the council, and clause 11(3) in particular, says 'in the performance of its functions the council should seek (a) to provide advice to the minister on'—and then there are, in fact, six different things that it should be providing advice on to the minister. I have four different additions that I want to add to those responsibilities. This is the first one, which is to insert a social justice component to those responsibilities.

We heard the claim from Business SA today about the costs that will be associated with the interim target. I am not totally convinced, but there is an argument that some, particularly those in the lower earning capacities of our society, are going to be less able to adapt and they are probably going to need extra assistance. There might be, for instance, carbon taxes that will be imposed that could be difficult for them. This puts the responsibility on the council to consider any costs that might be a problem for some of those people who are more vulnerable, and to provide advice to the minister on those costs.

The Hon. M. PARNELL: The Greens support the amendment. Clearly, the social and economic implications do need to be taken into account. Further to what the Hon. Sandra Kanck said about economic consequences, we need only look at Sir Nicholas Stern's report whereby the cost of not doing something about climate change was going to be the equivalent of the Great Depression and both World Wars put together. Having said that, I think we would need to be very careful about adopting climate change policies that priced electricity or petrol so that only the rich could afford to have lights or afford to drive, so I think these are important considerations to include in the legislation.

The Hon. NICK XENOPHON: I indicate my support for the amendment.

The Hon. D.W. RIDGWAY: I indicate the opposition will not be supporting the amendment. We think the council should be reporting to the minister on any costs—not just on disadvantaged groups, but any groups within the community.

The Hon. G.E. GAGO: The government opposes the amendment. It is already covered by clause 11(3)(2) which requires the council to provide advice on the impact of the operation and implementation of the act on the wider community. The principles of the legislation also provide for realising targets without compromising social justice objectives, and that is clause 3(2)(b).

Amendment negatived.

The Hon. SANDRA KANCK: I move:

Page 10, after line 27—
Insert:

(iva) action that can be taken by administrative units and state government instrumentalities, and other key sectors of the economy, to reduce greenhouse gas emissions and to promote the use of renewal energy sources; and

When I gave my second reading speech I referred to the first climate change bill in the world that was introduced by the Democrats back in 1989. In fact, there were two versions of it in 1989. One of the things it did was to require government departments and administrative units to take action to reduce greenhouse gas emissions. This amendment, as I promised in my second reading speech, picks up on that bill from 1989 and this becomes another of the functions of the council—to report to the minister and give advice about what actions can be taken by government departments to reduce their greenhouse gas emissions.

The Hon. M. PARNELL: The Greens support this amendment; in many ways it is similar to another amendment I have on file. The government does need to lead by example, and the starting point for the government to show the community that it is serious is for government departments and administrative units to lead by example. I think this is an amendment worth supporting.

The Hon. D.W. RIDGWAY: The opposition does not support the amendment.

The Hon. G.E. GAGO: The government opposes the amendment. The functions of the council are currently sufficiently broad enough to give the council power to examine actions that key sectors of the economy, including the government, can take in relation to climate change. In relation to government actions, there are other provisions within the legislation under paragraph 14(2)(b), which provides that the minister must:

develop a policy or policies that demonstrate the government's leadership in dealing with climate change through the management and reduction of its own greenhouse gas emissions

The Hon. SANDRA KANCK: I would like to put on record my disappointment that both the government and the opposition do not support this amendment. The Hon. David Ridgway did not even give any reason for the opposition's lack of support. Overall, this bill is basically voluntary and the only place where any action is likely to take place, if we look at the reality of it, is within government. Ducking for cover, as the minister is doing, and refusing to acknowledge it will, in the end, give us a toothless tiger.

Amendment negatived.

The Hon. SANDRA KANCK: I move:

Page 10, after line 31—Insert:

(va) the effectiveness of any determination or target under section 5, and the need to revise any such determination or target; and

(vb) the use and effectiveness of sector agreements under section 16 and, if necessary, the extent to which sector agreements should be required in a particular sector of the state's economy; and

These are the final two requirements that I suggest should be areas of interest on which the climate change council can advise the minister. In particular, the first paragraph has the council advising the minister about any determination or target under section 5. I know we have spent a lot of time on this (I think we have spent about an hour and a half on section 5 of the legislation already), but it is very clear that you could drive a tractor through it and still be very comfortable with the space either side. Paragraph (va), in particular, is another way (albeit a slight one) of bringing in a little more accountability, because once the minister has made a determination or set a target the council will, if this is included, be able to consider that and go back to the minister and make some recommendations about it. It just adds a little bit more accountability in an area that is crucial to the bill.

The second paragraph of the amendment relates to clause 16 of the bill and sector agreements. If members would prefer to vote on my proposals separately, I would be happy to put paragraph (va) to the vote first and then paragraph (vb), if that is more acceptable to the opposition.

The CHAIRMAN: Until any other member requests that, I will put it in the original form.

The Hon. D.W. RIDGWAY: The opposition requests that the amendment be put in two parts, if possible. The opposition sees merit in the first paragraph of this amendment that provides some small level of accountability and a check and balance back to the interim targets that have been set. I indicate that the opposition will support the first part but not the second.

The Hon. M. PARNELL: The Greens support both parts of the amendment.

The Hon. G.E. GAGO: The government rejects both paragraphs (va) and (vb) and believes that they are unnecessary. Every alternate report on the operations of the legislation must already contain a report from the Premier's climate change council that assesses the extent to which any determination or target made or set under clause 5 is being achieved, and clause 16(4)(b) provides that the minister must establish and maintain:

A scheme to provide for the inspection and independent assessment of sector agreements

The committee divided on paragraph (va) of the amendment:

AYES (14)

Bressington, A.	Dawkins, J. S. L.
Evans, A. L.	Hood, D.
Kanck, S. M. (teller)	Lawson, R. D.
Lensink, J. M. A.	Lucas, R. I.
Parnell, M.	Ridgway, D. W.
Schaefer, C. V.	Stephens, T. J.
Wade, S. G.	Xenophon, N.

NOES (7)

Finnigan, B. V.	Gago, G. E. (teller)
Gazzola, J. M.	Holloway, P.
Hunter, I.	Wortley, R.
Zollo, C.	

Majority of 7 for the ayes.

Paragraph (va) thus inserted.

Paragraph (vb) negatived.

The Hon. SANDRA KANCK: I move:

Page 10, line 34—After 'business' insert:
, the environment and conservation movement

I find it surprising that, just as the environment and conservation movement was left out of the council, in any wider consultation the environment and conservation movement will be left out. This amendment simply includes it as one of the important parts of our society that needs to be included in the consultations.

The Hon. M. PARNELL: The Greens support the amendment.

The Hon. D.W. RIDGWAY: I indicate that the opposition supports the amendment.

Amendment carried.

The Hon. D.W. RIDGWAY: I move:

Page 10, after line 38—Insert:

(4) The following requirements apply in connection with the operation of paragraph (a) of subsection (3):

(a) any advice to the minister under that paragraph must be provided or confirmed by the council by instrument in writing;

(b) the minister must, within 6 sitting days after the end of each quarter, cause a copy of any instrument received under paragraph (a) of this subsection during the quarter to be laid before both houses of parliament;

(c) the minister must ensure that any instrument tabled under paragraph (b) is accompanied by a statement from the minister in which the minister sets out the extent to which the minister has acted on the relevant advice, or intends to act on the relevant advice and, to the extent that it is not accepted, the reasons why not.

This amendment relates to the function of the council to provide independent advice to the minister and to that independent advice.

The Hon. M. PARNELL: The Greens support this amendment, which we see as a useful mechanism to prevent important advice being swept under the carpet.

The Hon. G.E. GAGO: The government opposes this amendment. As we stated in the debate in the other place, the requirement of the council to provide its advice in writing, and to have that advice provided to the parliament each quarter, would make its operation cumbersome and, we

believe, unworkable. There is sufficient scope in the bill to make its independent views known to parliament. Clause 13 obliges it to report annually to the parliament, and an amendment agreed to previously will ensure that it reports every two years, as well as in the report of the minister's department.

The Hon. D.G.E. HOOD: We support the amendment.

The Hon. NICK XENOPHON: I indicate my support for the amendment.

Amendment carried; clause as amended passed.

Clauses 12 and 13 passed.

Clause 14.

The Hon. SANDRA KANCK: I move:

Page 12, line 4—After 'this section' insert:
(including any policy as varied)

This provides a little more accountability. As it is currently worded it provides that the minister has to publish any policy that is developed under new section 14. There might be changes or amendments to those original policies. This amendment requires that they also be published.

The Hon. D.W. RIDGWAY: I indicate the opposition will be supporting this amendment.

The Hon. G.E. GAGO: The government will be supporting this amendment. There is no reason why there should not be a report on any policy (as varied).

Amendment carried.

The Hon. SANDRA KANCK: I move;

Page 12, after line 4—Insert:

(5) The minister must, in association with the operation of subsection (4)—

(a) give notice of the introduction or adoption of a policy under this section (and of any variation of a policy) by notice in the Gazette; and

(b) ensure that copies of any policy (including any policy as varied) are reasonably available for inspection at a place or places determined by the minister.

This amendment fills a gap. New subsection (4) provides that the minister has to publish the policy or any variations in the policy. This amendment specifically provides the how and where it will be published.

The Hon. D.W. RIDGWAY: This gives a mechanism for how to publish that policy. The opposition supports it.

The Hon. G.E. GAGO: The government opposes this amendment. The effect of this amendment is amply covered by clause 14(4) which provides that 'the minister must publish any policy developed under this section'.

The Hon. NICK XENOPHON: I support the amendment.

The Hon. D.G.E. HOOD: Family First opposes the amendment.

The Hon. M. PARNELL: The Greens support the amendment.

The Hon. A.M. BRESSINGTON: I support the amendment.

Amendment carried; clause as amended passed.

New clause 14A.

The Hon. M. PARNELL: I move:

New clause, page 12, after line 4—

Insert:

14A—South Australian Renewable Energy Target

(1) The Minister must, by 1 July 2008, prepare a report that sets out a comprehensive policy designed to achieve the renewable electricity generation target.

(2) The policy—

(a) must include a scheme under which entities involved in the generation of electricity must meet specified targets for the generation of renewable electricity, including through a system based on the creation and acquisition of certificates that recognise renewable energy initiatives; and

(b) must make provision to take into account economic growth and anticipated demands on electricity, especially in setting the targets envisaged by paragraph (a); and

(c) must include a penalty regime to apply to entities that fail to comply with relevant requirements or to meet the specified targets; and

(d) must take into account similar schemes under the laws of the other States, the Territories, or the Commonwealth, but not so as to allow electricity generated from renewable energy sources in a place outside the State to be credited under the scheme established for this State; and

(e) must provide comprehensive proposals for a legislative package directed towards achieving the renewable electricity generation target.

(3) The Minister must cause a copy of the report to be laid before both Houses of Parliament within 6 sitting days after the report is prepared.

(4) In this section—

renewable electricity generation target means the target set under section 5(2)(a);

renewable energy is energy generated from any of the following sources:

(a) hydro;
(b) wave;
(c) tide;
(d) ocean;
(e) wind;
(f) solar (other than solar energy used in a device primarily for heating water);
(g) geothermal-aquifer;
(h) hot dry rock;
(i) energy crops;
(j) wood waste;
(k) agricultural waste;
(l) waste from processing of agricultural products;
(m) food waste;
(n) food processing waste;
(o) bagasse;
(p) black liquor;
(q) biomass-base components of municipal solid waste;
(r) landfill gas;
(s) sewage gas and biomass-based components of sewage;
(t) any other source brought within the ambit of this definition by the regulations, but not so as to include any source attributable to fossil fuels or materials or waste products derived from fossil fuels.

This new clause provides a commitment in this legislation to set up a mechanism to ensure the renewable energy targets in the bill are met. The method used is the establishment of a South Australian Renewable Energy Target Scheme (SARET). Despite the amendments moved to date, there still remains no mechanism for South Australia to achieve the renewable energy targets in this bill. A South Australian Renewable Energy Target Scheme, which is a state-based version of the commonwealth scheme, is a market-based scheme that would mandate South Australia's consumption of electricity generated from renewable sources by encouraging additional generation of electricity from renewable energy. The commonwealth's MRET scheme is the main reason that South Australia has so much wind energy.

I point out that a South Australian Renewable Energy Target Scheme is strongly supported by the renewable energy industry. Also, I point out that since the Victorian government introduced its VRET scheme in September last year, over $1 billion worth of investment in new renewable energy

projects in Victoria has been announced. The New South Wales government is committed to introducing a similar scheme, and the Western Australian upper house, likewise, has passed a similar scheme. I think it is an important and appropriate addition to this bill. I urge all members to support it.

The Hon. D.W. RIDGWAY: I indicate that the opposition does not support this amendment, but we have some understanding of how the commonwealth MRET scheme has worked. Unfortunately, as I indicated earlier in the week, we received these amendments only a couple of days (about 48 hours) before we were due to debate them. I would suggest that the Hon. Mark Parnell when we come back in May might like to make this a reference to the ERD Committee for further investigation. That is something the opposition would be quite happy to support, but in this instance we do not support the amendment.

The Hon. NICK XENOPHON: I indicate my support for the amendment. I believe that it will assist South Australia to reach its renewable energy target, and I think it is a sensible amendment.

The Hon. SANDRA KANCK: I indicate Democrat support for the amendment. An amendment that I have coming up shortly includes a reference to a mandated renewable energy scheme, but this one, I guess, fleshes it out, and I believe the addition that the Hon. Mark Parnell seeks to put in would be complementary to the amendment that I will move shortly.

The Hon. G.E. GAGO: The government opposes the amendment. Our view is that emissions trading is a preferred policy option for achieving greenhouse gas reductions, as it is likely to represent the least cost and most effective policy intervention as compared to an emissions trading scheme. SARET, based solely on renewable energy, would not provide incentives for energy efficiency, demand management, increased penetration of a gas-fired generation plant to replace coal, or the uptake of low emissions technology as distinct from zero emission technologies. All of these could provide substantial reductions in greenhouse emissions at a relatively low cost. If SARET were implemented, the upward pressure on electricity prices would represent a problem and could run the risk of inducing migration of energy-intensive industry away from South Australia.

New clause negatived.

The Hon. SANDRA KANCK: I move:

Page 12, after line 4—Insert:

14A—Energy efficiency

(1) The Minister must take steps to develop and implement a policy under this section that encourages the development, implementation and adoption of energy efficiency programs and effective and appropriate consumer-based electricity generation initiatives so as to enable members of the public, business and other groups or bodies to feed electricity into the electricity distribution network.

(2) A policy under subsection (1) must take into account or address advantages associated with—

(a) making payments or providing rebates to persons or bodies who feed electricity into the electricity distribution network; and

(b) introducing the requirement to meet mandatory renewable energy targets within particular sectors of the community, or in connection with various activities or circumstances; and

(c) providing rebates for the acquisition or use of certain equipment or materials, or the adoption of certain practices, associated with achiever improved outcomes with respect to the use or generation of electricity within the community.

This follows clause 14, and members would see that Part 4 is headed 'Policies, programs and other initiatives', and then clause 14 is policies. This is new clause 14A which refers to specific policies that we believe should be implemented. We just talked about mandated renewable energy targets: it does not mean that an MRET scheme would be put in place, but it means that a policy would certainly be looked at as far as an MRET scheme. MRET is only one example of the ways in which we can achieve energy efficiency, and this new clause gives other examples such as consumer-based electricity generation initiatives, people being able to feed electricity into the electricity distribution network, and so on. I think we need to look at the sorts of advantages that having policies such as this can bring, and I will talk a little bit about the MRET scheme which has driven the development of solar and wind energy around Australia.

Some 18 months ago the federal government announced, after a study, that it would no longer continue the MRET scheme. The consequence of that, and I guess this is shown in a negative sense, is that late last year a factory in Tasmania that was producing the nacelles for the wind turbines in Australia closed down because the lack of a federal MRET scheme was leading to a lack of orders for wind farms across Australia. So, if you consider it in those terms, and that is the negative example of what happens when you stop an MRET scheme, you can see what the positives would be.

In California, Governor Arnie Schwarzenegger has set up his solar roofs program, and it is part of the reason he is so confident that California can take those deep cuts. There is now a burgeoning solar industry in California as a consequence of the policies that have been developed and the assorted energy efficiency methods and programs that are now being put into place in that particular state of the United States. So, I believe that it does not demand in any way that the government implement these policies. All it does is require that the policies be developed, which is certainly not a very hard ask.

The Hon. G.E. GAGO: The government rejects this amendment. Clause 6(1)(g) provides that one of the functions of the minister is to promote the commercialisation of renewable energy, support initiatives to develop a scheme, and promote the generation and use of renewable electricity, including by providing incentives to encourage people to feed electricity generated from renewable electricity back into the grid. The inclusion of energy efficiency in the objects is reinforced by supporting references in the functions of the council and sectorial agreements. One of the functions of the minister is to develop, adopt or promote policies or programs that are relevant to addressing climate change and the effects of climate change in accordance with the objects of the act, which includes energy efficiency.

The Hon. D.W. RIDGWAY: I indicate that the opposition does not support the amendment. However, given the government's appearing to be very concerned about what it believes is an unachievable target, I think this is another example of where we could perhaps also refer this to the ERD Committee when we return for the new session so that the ERD Committee can look at these issues and perhaps recommend to the government how it might achieve what it believes to be an unachievable target but what the rest of us believe to be a very achievable target.

New clause negatived.

Clause 15.

The Hon. M. PARNELL: I move:

Page 12, after line 22—Insert:

(4) The minister must, in conjunction with the operation of subsections (1) and (2), develop criteria aimed at ensuring that emission offset programs recognised under this section—

(a) take into account the need to provide and protect biodiversity within the environment; and

(b) do not adversely affect existing natural resources.

The purpose of this amendment is to make sure that tree planting schemes for carbon offset (which the Greens strongly support) are conducted in a way that does not have adverse environmental impacts either in terms of biodiversity or impacts on other natural resources. What I have in mind is the South-East of this state, where the timber industry is marching on a pace, yet it is clearly having serious impacts on other natural resources, in particular groundwater resources. I note from that fine journal of record *The Naracoorte Herald* earlier this month that the Public Relations Manager for one of the main timber planting groups says that tree plantations are good. He also said that they improve water quality and assist with problems arising from historic over clearing of land, such as salinity and erosion, not to mention their role as carbon sinks. It would be a tragedy if we had a carbon offset scheme that consisted of monocultures of inappropriate species in inappropriate locations that impacted adversely on other users of natural resources, such as the grape growers of the South-East. I urge all members to support the amendment.

The Hon. SANDRA KANCK: The Democrats enthusiastically support the amendment. Although it has not been done for carbon offset purposes, a very good example of the impact of forestry is occurring right now down at Deep Creek on Fleurieu Peninsula, where that creek faces destruction unless action is taken to remove some of the pine trees that have been planted so very close to the creek—in fact, on top of some of the soaks. That is an extremely good example, because the farmers who depend on that creek and who have done so for the past 50 years are now finding that it does not run at all in summer, and that has been done accidentally. We should learn from those sort of mistakes and ensure that any sort of planting that is done for carbon offset purposes is done not only with good intentions to absorb the carbon but also good intentions to ensure that the rest of the environment is not negatively impacted.

The Hon. NICK XENOPHON: I support the amendment. The research articles I have read recently on this matter indicate that you can have unintended consequences. You need to determine where you are planting the trees, that is, whether it will have an environmental impact. If we are serious about this, we need to look at those potential impacts.

The Hon. D.W. RIDGWAY: I indicate that the opposition does not support the amendment.

The Hon. Sandra Kanck interjecting:

The Hon. D.W. RIDGWAY: The Hon. Sandra Kanck moans, 'Come on!' This is a particularly complex issue. As I have said, we have had these amendments for only a couple of days. We might find that planting trees will have a negative environmental impact, but it might well outweigh the damage caused by greenhouse emissions elsewhere. There will be some balances. You cannot change the ecosystem or the landscape without it having some effect. It just seems to be too complex at this point. It may well be something the ERD Committee could look at in the next parliament. I indicate that the opposition does not support the amendment.

The Hon. G.E. GAGO: The government opposes this amendment. The amendment seeks to require emission offset programs to address biodiversity and natural resources depletion, but not all emission offsets relate to natural resources management. For example, some companies purchase energy efficiency offsets, such as lower emitting light globes and solar panels. These are unrelated to biodiversity and natural resource depletion. There are some concerns that proposed paragraph (b) implies that a predevelopment assessment or an environmental impact statement is necessary. This complicates the matter and may delay offset programs and possibly dissuade the take-up of the initiatives.

The Hon. NICK XENOPHON: I urge the Hon. David Ridgway to look at an article entitled 'Look, no footprint' by Fred Pearce in *The New Scientist* of 10 March this year, because it talks about carbon offsets and how there are unintended consequences. The evidence is overwhelmingly clear. You need to look at the potential impact of what you are doing so that it does what it is meant to do rather than having an adverse consequence.

The Hon. D.W. RIDGWAY: That is exactly why, after two days' notice, we want to vote against this amendment at this point. I understand the sentiment of the amendment, which is why I have suggested that it requires further investigation and perhaps a reference to the ERD Committee in the next parliament.

Amendment negatived; clause passed.

Clause 16.

The Hon. M. PARNELL: I move:

Page 12—

Line 24—After 'person' insert 'or entity'

Line 25—Delete 'on a voluntary basis'

Page 13—After line 3 Insert:

(3a) The minister must take steps to achieve a sector agreement with key state government business enterprises and administrative units by 1 July 2008.

(3b) The minister must prepare a report on the outcomes achieved for the purpose of subsection (3a) and cause a copy of the report to be laid before both houses of parliament within six sitting days after the report is finalised.

The amendment to page 12, line 24 is a test for the other amendments. On my notes this is one with the word 'divide' written on it, but I understand the other house is waiting for us, so I want the government and opposition to state their position clearly on this if they are not with me.

This goes to the heart of the government's commitment to greenhouse gas reductions in this state. I propose that with these voluntary sector agreements the government must lead by example. The very first of these agreements must be between the government and itself, and between the government and those South Australian government departments, business enterprises and other agencies that are responsible for so much of our greenhouse gas emissions. SA Water alone has some 3 per cent of the state's electricity use. If the government is not able to commit, through its own operations, to coming up with a scheme for the reduction of greenhouse gases through this legislation, it begs the question: how seriously does it expect the rest of the economy and the rest of the corporate world, to take this legislation? I will not divide on this issue, but I hope to hear the support of both the opposition and the government on this amendment.

The Hon. G.E. GAGO: The government requests that each amendment be put separately and that with amendment No. 27 the chair put new subclauses (3a) and (3b) separately.

It is 2½ out of three. We accept amendment No. 25, reject amendment No. 26 and accept new subclause (3a) but reject new subclause (3b) of amendment No. 27. With amendment No. 25, we support adding 'or entity'. We would support the inclusion of state government and local government entities. With amendment No. 26, we reject deleting the words 'on a voluntary basis' as they are there to reinforce the collaborative nature of the bill's approach. Deleting the words removes the opportunity to assure industry and the community of the priority the government gives to proceeding on a voluntary basis. In relation to amendment No. 27, we support new subclause (3a). We are prepared to accept it on the basis that it is obliged to take steps to achieve sector agreements with its own agencies, but we do not support new subclause (3b). I have explained the comprehensive reporting; we have more reporting provisions than you can poke a stick at in this bill, and we are most reluctant and unwilling to extend them any further.

The Hon. D.W. RIDGWAY: The opposition will support amendment No. 25, but not No. 26. The minister hit the nail on the head earlier in the debate when she talked about the voluntary and collaborative approach of the bill and quoted Peter Vaughan from Business SA saying that it would cost jobs and damage the Australian economy. I remind her that it is all on a voluntary basis.

The Hon. R.I. Lucas interjecting:

The Hon. D.W. RIDGWAY: As my colleague Rob Lucas interjects, it is only if business agrees.

The Hon. B.V. Finnigan: Sabotage it.

The Hon. D.W. RIDGWAY: Your Premier's target was an increase in greenhouse gases, and it still is. I do not know how you can say that he is a champion of climate change when his goal and aspiration is to increase greenhouse gas emissions and not reduce them. We will not support amendment No. 26, but will support amendment No. 27 in its entirety.

The Hon. NICK XENOPHON: I indicate my support for the Hon. Mr Parnell's amendments. We need to look at mandatory targets. It is anathema to Business SA, but the cost, as Sir Nicholas Stern said, of not doing anything is much greater than any potential cost to business and the community now. The costs of not dealing with this are potentially catastrophic.

The Hon. D.G.E. HOOD: I indicate Family First support for the amendment No. 25, opposition to No. 26 and support for new subclause (3a) but opposition to new subclause (3b) of amendment No. 27.

The Hon. SANDRA KANCK: The Democrats will support all three amendments in their entirety.

Amendment to page 12, line 24 carried; amendment to page 12, line 25 negatived; amendment to page 13 carried; clause as amended passed.

New clause 16A.

The Hon. M. PARNELL: I move:

Page 13, after line 7—Insert:

16A—Energy efficiency opportunities

(1) A person who undertakes a prescribed activity—

(a) must register the activity with the minister under a scheme prescribed by the regulations; and

(b) must develop and implement an energy efficiency plan, in accordance with any requirements prescribed by the regulations—

(i) that is based on an assessment of the extent to which the prescribed activity may produce greenhouse gas emissions; and

(ii) that sets out a scheme to address those emissions through energy efficiencies or other initiatives; and

(iii) that incorporates any other prescribed elements.

Maximum penalty: $100 000

(2) The offence constituted by subsection (1) lies within the criminal jurisdiction of the environment, Resources and Development Court.

(3) In this section—

prescribed activity means—

(a) an activity within the ambit of clause 892) of schedule 1 of the Environment Protection Act 1993; or

(b) an activity brought within the ambit of this definition by the regulations.

This clause seeks to include an implementation of energy efficiencies opportunities section of the bill that requires the mandatory reporting and disclosure of greenhouse emissions by medium to large emitters.

Medium to large greenhouse gas emitters are to be required to conduct energy efficiency opportunity assessments; and, hopefully, as a result of those, they will implement energy opportunity measures. The threshold for the size of entity that is brought within this clause is established by virtue of reference to the Environment Protection Act. Entities are required to be licensed under clause 8(2) of schedule 1 of that act, or the government has an additional ability through regulations to decide what size entities should be required, first, to register with the minister and, secondly, develop and implement energy efficiency plans. I think that this is a practical consequence that provides some flesh on the bones of this bill, and it requires our biggest greenhouse gas polluters to have a look at themselves and to implement a plan to reduce their greenhouse gas emissions.

The Hon. D.W. RIDGWAY: We have had this amendment for only a couple of days. We think it is probably quite a sensible amendment but, because we have had only a couple of days to consider it, we are not prepared to support it at this stage. I indicate that the opposition will not be supporting it.

The Hon. G.E. GAGO: The government does not support this amendment. I have previously put my reasons on the record as to why we are not supporting this amendment.

The Hon. SANDRA KANCK: I indicate Democrat support.

New clause negatived.

Clauses 17 to 19 passed.

Clause 20.

The Hon. SANDRA KANCK: I move:

Page 14, after line 38—

Insert:

(3) In addition, the annual report of each administrative unit must include a report on what action (if any) has been taken by the administrative unit during the relevant financial year to reduce greenhouse gas emissions arising from its activities.

Again, I refer to the first and the second climate change bills introduced into the world by the Democrats back in 1989, and a requirement in one of those bills was that the annual reports, which all government departments are required to provide, should include a section that indicates what actions that particular department or unit had taken in the previous 12 months. The answer might be none, but at least there is a need to report what action they may or may not have taken to reduce greenhouse gas emissions within that entity.

The Hon. D.W. RIDGWAY: The opposition will not be supporting this amendment. I think it is adequately covered by the Hon. Mark Parnell's amendment to page 13. We therefore see no need to have an extra level of reporting.

The Hon. G.E. GAGO: The government opposes this amendment. As I have already stated, there are more than ample reporting provisions within the bill.

Amendment negatived; clause passed.

Clause 21.

The Hon. D.W. RIDGWAY: I move:

Page 15, after line 16—
Insert:
(6) Subsection (1) operates subject to the qualification that the first review must be completed by the end of 2009.

This amendment requires the government to report by the end of 2009, which effectively is just prior to the next election. As I mentioned in my second reading contribution, time and again we have seen this government introduce wonderful programs and things called state strategic plans with aspirational goals which are never achieved, and the reporting period is not until after the election. If this government and Premier want to be champions of climate change, take all the media spotlight and spin the story as much as possible they should be held accountable and we should have a report prior to the next election. I commend the amendment to the chamber.

The Hon. D.G.E. HOOD: Family First supports the amendment for the reasons outlined by the Hon. Mr Ridgway. It is important that governments are held to account with these reporting mechanisms, and they need to be timely.

The Hon. M. PARNELL: The Greens support the amendment.

The Hon. SANDRA KANCK: The Democrats support the amendment. The more accountability we can get with this government the better.

The Hon. G.E. GAGO: The government rejects this amendment. The government does not support bringing forward the review to the end of 2009. This would bring the review forward by around 18 months, being insufficient time for the initiatives set out in the bill (such as the sector agreements and the carbon offset register) to be developed and have a history of operation. Voluntary sectorial agreements are pivotal to bringing change to the industry. To review their efficiency in such a short time span would be setting these agreements up to fail.

Amendment carried; clause as amended passed.

Clause 22 passed.

New schedule.

The Hon. M. PARNELL: I move:

New schedule, page 16, after line 7—
Insert:
Schedule 1—Related amendments
Part 1—Preliminary
1—Amendment provisions
In this Schedule, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.
Part 2—Amendment of *Parliamentary Committees Act 1991*
2—Amendment of section 3—Interpretation
Section 3, definition of *Committee*—after paragraph (i) insert:
or
(j) the Parliamentary Committee on Climate Change;
3—Insertion of Part 5E
After Part 5D insert:
Part 5E—Parliamentary Committee on Climate Change
Division 1—Establishment and membership of Committee
15M—Establishment of Committee
The *Parliamentary Committee on Climate Change* is established as a committee of the Parliament.
15N—Membership of Committee
(1) The Committee is to consist of 6 members.
(2) Three members of the Committee must be members of the Legislative Council appointed by the Legislative Council and 3 must be members of the House of Assembly appointed by the House of Assembly.
(3) A Minister of the Crown is eligible to be a member of the Committee, and section 21(2)(e) does not apply in relation to the members of the Committee.
(4) The Committee must from time to time appoint 1 of its Legislative Council members to be the Presiding Member of the Committee but if the members are at any time unable to come to a decision on who is to be the Presiding Member, or on who is to preside at a meeting of the Committee in the absence of the Presiding Member, the matter is referred by force of this subsection to the Legislative Council and that House will determine the matter.
Division 2—Functions of Committee
15O—Functions of Committee
(1) The functions of the Committee are—
(a) to take an interest in and keep under review—
(i) the extent to which action is being taken to address climate change and the effects of climate change; and
(ii) the economic environmental and social impacts of climate change, and of responses to climate change, with particular reference to impacts that have a direct affect on the South Australian community; and
(iii) processes to address climate change, or to address activities that may contribute to climate change, with particular reference to reporting and assessment processes, and initiatives to reduce greenhouse gas emissions; and
(iv) the operation of any Act that is relevant to addressing climate change; and
(b) to perform such other functions as are imposed on the Committee under this or any other Act or by resolution of both Houses.
Part 3—Amendment of *Parliamentary Remuneration Act 1990*
4—Amendment of Schedule—Additional salary
Schedule—at the end of the Schedule insert:

Presiding Member of the Parliamentary Committee on Climate Change (unless a Minister)	14
Other members of the Parliamentary Committee on Climate Change (unless a Minister)	10

My amendment proposes the establishment of a new joint standing committee of parliament on climate change. I am mindful that the minister says we have more reporting than perhaps even she is comfortable with, yet it seems to me that, if we are to take seriously what the Premier said on 16 August 2006—that 'it is a bigger threat ultimately to our planet, to our way of life, to our economy than even terrorism'—and if climate change is such an important issue for South Australia and for the planet, then a joint standing committee of parliament would show the requisite commitment by parliament and would enable parliamentary scrutiny of all aspects of government action in relation to climate change. I urge members to support this amendment.

The Hon. D.W. RIDGWAY: I indicate that the opposition will not support the establishment of this standing committee. We see the Environment, Resources and Development Committee as the logical committee for any particular inquiries in relation to this particular issue. We now have a Natural Resources Committee that takes some of the workload from the ERD Committee, so we see that as the logical committee to carry out this work.

The Hon. G.E. GAGO: The government does not support this amendment. We believe there are sufficient parliamentary committees in place at present to focus on the various economic, environmental and social impacts of climate change.

New schedule negatived.

Title passed.

Bill recommitted.

Clause 5.

The Hon. M. PARNELL: I move:

Page 5, after line 12—Insert:

(1a) An interim target in connection with the SA target under subsection (1) is to reduce by 31 December 2020 greenhouse gas emissions within the state by at least 30 per cent to an amount that is equal to or less than 70 per cent of 1990 levels.

This is a matter on which we did not get to test the feeling of the committee yesterday. I do not propose to reopen the whole debate. We all spoke about why we thought the different targets were appropriate. I believe that the magnitude of this problem is such that a target that is consistent with that of some of the great greenhouse thinkers of our age, should be supported, and I urge all members to support the 30 per cent interim target.

The Hon. SANDRA KANCK: As members know, I had an amendment for a 25 per cent interim target. Obviously, we did not get to vote on that. Now that the Hon. Mr Parnell has recommitted this clause and is moving for a 30 per cent interim target, I will certainly support that. I think it is disappointing that we have not had the deep cuts that are necessary in the fundamental amount that we are setting as part of this bill, but we do need to have targets that really give us something to aim at. While 20 per cent is certainly better than what the government was proposing, given the very rubbery figures that we were given about the baseline levels, I do not know that 20 per cent is going to have a huge impact anyhow, and I would much rather a higher amount, so I will support the amendment.

The Hon. G.E. GAGO: The government rejects this amendment. We have made very clear on the record our reasons for opposing a higher interim target than that proposed by the government.

The Hon. D.W. RIDGWAY: I indicate that the opposition will not support this amendment. We believe that the 20 per cent interim target by 2020 is achievable and bold. It will set us to aim high but it will be achievable; it will not be out of the reach of the South Australian economy, unlike, as the Premier describes it, the government's bold target that is actually higher than it is today. We will not support the Hon. Mark Parnell's amendment.

The Hon. R.I. LUCAS: The minister yesterday indicated she would take advice on whether or not there were imports of electricity in 1990. Is the minister going to respond to that question this afternoon?

The Hon. G.E. GAGO: That information is part of the response we are preparing.

The Hon. R.I. LUCAS: For the record, can the minister indicate whether 32.4 megatonnes is the figure the government is using as the 1990 figure?

The Hon. G.E. GAGO: That is the information I gave last night. I see no reason why I have to keep repeating it.

The Hon. R.I. LUCAS: So the minister is sticking by the 32.4 megatonnes figure for 1990 but is not responding to the question regarding whether there needs to be an adjustment as a result of imports of electricity.

The Hon. G.E. GAGO: I have answered the question.

The Hon. R.I. LUCAS: The arrogance and ignorance of this minister is unbelievable.

The Hon. R.D. Lawson interjecting:

The Hon. P. HOLLOWAY: I rise on a point of order, Mr Acting Chairman. I suggest it is the arrogance of the Leader of the Opposition that is beyond belief. We have seen it for 25 years.

An honourable member interjecting:

The Hon. P. HOLLOWAY: My point of order—

Members interjecting:

The ACTING CHAIRMAN (Hon. B.V. Finnigan): Order!

The Hon. R.I. LUCAS: Sit down! Who do you think you are?

The ACTING CHAIRMAN: Order! The Hon. Mr Lucas will resume his seat.

Members interjecting:

The ACTING CHAIRMAN: Order! The Leader of the Government has a point of order.

The Hon. P. HOLLOWAY: My point of order relates to relevance. The Leader of the Opposition is not referring to the recommitted clause.

The Hon. R.I. LUCAS: There was no point of order. In terms of relevance, the clause being debated at the moment is clause 5. This is the key clause in relation to the reduction targets. I have put two simple questions to the minister: whether the government's target is 25 per cent, 20 per cent or 30 per cent, or to maintain it. The committee ought to know the actual base, and the base is the number of megatonnes in 1990. The minister has just said that she is standing by the government's figure of 32.4 megatonnes; however, the minister has also said that the state is adjusting the figures as a result of imports of electricity, and has adjusted 2004.

The minister has also said that she is refusing to answer the question, at this time, in relation to whether or not there were imports of electricity in 1990. It is quite clear to anyone who is prepared to listen to the minister's attempts to respond to questions on this issue that, if there were imports of electricity in 1990, the 32.4 megatonnes of greenhouse gases in 1990 will not be the base figure—irrespective of what the minister has just said.

As I said, the arrogance of this government and of this minister is apparent for everyone to see in relation to her ignoring and refusing to respond to those base questions during the committee stage this afternoon. The *Hansard* record will reveal everything in relation to that particular issue.

The Hon. G.E. GAGO: We know that the opposition has its back to the wall, we know that it is desperately trying to cling on in the face of adversity. As I have said, you can always tell when the Hon. Rob Lucas has his back to the wall because he resorts to personal attacks. Well, so be it; it shows the measure of the man and I certainly have broader shoulders than that.

I remind the committee that the opposition was more than willing to put forward its interim target last night and more than willing not to support the alternate interim figure put forward by the Hon. Mark Parnell. It obviously believes it has more than adequate information to pursue its irresponsible and unrealistic interim target. Well, so be it; the vote is over and the die cast. I spent many hours last night putting on record the information that was to hand, and I have made it very clear that the information requested is being prepared. We remain happy to provide officers with a briefing, as promised.

The opposition has had a very bad day, and we can see the honourable member, poor old Rob Lucas, losing it on the

floor. However, we have an opportunity to complete this bill and move forward, and I think it is time that we did that.

Members interjecting:

The CHAIRMAN: Order!

The Hon. NICK XENOPHON: With respect to the minister, there is a fundamental seminal question about the method for calculating greenhouse gas emissions, and I have not yet seen an answer and neither has the opposition—unless we have missed something fundamental—and that concerns me.

I indicate my support for this amendment. I would like honourable members to reflect on what was reported in this morning's *Sydney Morning Herald* by Professor Tony Haymet, who left the CSIRO last year to become head of the University of California's prestigious Scripps Institution of Oceanography. He urged both the federal opposition leader, Kevin Rudd, and Prime Minister John Howard to emulate the bipartisan steps to curb climate change that have occurred in California under Governor Schwarzennegger. He made the point that California is overwhelmingly focused on solutions to climate change, and said:

> There's no doom and gloom, there's no denialism, it's people rolling up their sleeves and saying we're a wealthy community, we're a smart community, and we can do something about it.

That is why I support these particular amendments. We need to be as ambitious as possible to deal with this problem.

Amendment negatived; clause passed.

Bill reported with amendments; committees's report adopted.

The Hon. G.E. GAGO (Minister for Environment and Conservation): I move:

> That this bill be now read a third time.

The Hon. D.W. RIDGWAY: I will be as brief as I can, but I think that it is important to put on the record today that the opposition has been criticised by the government and other people in this state for adopting a 20 per cent reduction in greenhouse gases by 2020. We know that this is a voluntary target and that it is an aspirational piece of legislation. I cannot believe that the government and members opposite have been criticising us for adopting a much bolder approach than they have. I will read a few of the comments of the Premier—the 'champion', as he says, of climate change in this state—over the past couple of years. In a press release on 28 June 2006, he stated:

> Global warming poses a greater threat to humans and our planet than terrorism, with emissions of carbon dioxide continuing to be the biggest cause of climate change.

He goes on to say:

> The targets we are setting for the state are bold.

Well, we have seen that this legislation—this bold target—is effectively an increase in greenhouse gas emissions. The government's interim target at 2020 of the levels of 1990 is an increase. I do not know how members of this government can look at themselves in the mirror, knowing that they have been conning South Australia and saying—

The PRESIDENT: Order! If the Hon. Mr Ridgway wants to make a contribution on the third reading he might want to speak about some of the things that concern him in the clauses that have been debated and put through the committee; and limit it to that. I repeat that it is not a second reading contribution.

The Hon. D.W. RIDGWAY: Because they are important I will read some other quotes onto the record. Another news release states:

> This is one of the most terrifying and important issues facing our nation—and the world. We must, in 2005 [two years ago], give the same kind of focus and attention to climate change that we have been giving to the worldwide threat of terrorism.

Today in committee, after having asked for information last night about the figures from 1990 to 2004 and the adjusted figures over that time—and we thought the government had done the calculations over the past couple of years that the Premier and the government have been considering climate change legislation—I was dumbfounded when the minister was unable to provide that information tonight. How have they done the calculations for this piece of legislation? The same press release continues:

> At present, if we fail to show leadership and fail to take the threat of global warming seriously, scientists warn that Australia can expect more extreme summer heat [and] fiercer storms.

And we know the consequences of those sorts of things. There are a couple of other quotes that are important to put on the record. Another news release states:

> Unless Australia becomes a world leader in tackling climate change, we will have no credibility convincing nations like China and India [that we are serious].

And, finally, another press release states:

> Anyone who believes that climate change is not a very real and present danger is kidding themselves and this government will not walk away from its responsibilities to do all we can to combat it.

I urge the government to accept the 20 per cent interim target, as it is a voluntary and aspirational target. The government should ensure its departments and the entities to which we have referred today show leadership for change and get out in front and lead this state to be one of the leaders in climate change legislation and greenhouse gas reduction, rather than spin and rubbish.

The Hon. SANDRA KANCK: I want to reflect on some of what has occurred over the past few days in relation to this bill. It was introduced on 13 March; of course, it is 29 March today. It is only a fortnight since it was introduced. In terms of sitting days, we went into the committee stage of this bill four days after the bill was introduced.

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

The Hon. SANDRA KANCK: Of course, that is interesting; it would have been only three sitting days if the government had had its way. Nevertheless, I think that it has shown some flaws in the process of pushing a significant bill through at this pace. I noted that, on a number of occasions, the Hon. Mr Ridgway responded to amendments that had been tabled by the Hon. Mark Parnell or me by saying that they had difficulties with it because they had only had the amendments for a short time. The fact that the amendments had been available only for a short time is reflective of that fact; that is, we had gone into the committee stage only four sitting days after the bill had been introduced.

In terms of what we achieved, there were some amendments that I do not believe substantially altered the bill and, of course, that is the nub of the whole issue. It was extremely disappointing that we do not know what the baseline will be, and even more disturbing that the government refused to provide us with the figures or to put it in a written form for us so that we could see what the government was working on. A word which has been used today is 'arrogant'. I consider it to be very arrogant for a government to say, 'We have the

information, but we will not share it with you.' The minister complained on a number of occasions about amendments that were successful because of the reporting requirements. She seemed to think that there were too many amendments requiring the government to report.

I think that, when we have a government that is offering us rubbery figures, as has happened throughout this committee stage, then it becomes more important that we do have those reports, because it will be the only way that we get that accountability. I suppose out of the amendments that were successful, the one that has pleased me most has been the one that will give the conservation movement a genuine representative on the climate change council. Fundamental to all this is that the bill is voluntary. I believe that that is its major weakness. There are many places in the world that are doing better than we are. To consider that this bill with which we have just dealt was five years in the making just shocks me. As a bill, it has had five years' work: it is a total let down. It is a bill that is cautious and conservative, but I will be supporting the third reading because it is better than nothing.

The Hon. M. PARNELL: I will be very brief in support of the third reading of this bill. I put on the record how disappointed I was in this process. The government's rhetoric and talk about climate change has been such that I had imagined it was trying to bring the community along with it, but it has baulked at the first hurdle. The first thing that was put in front of it saying, 'Okay, here is some real action that we might achieve,' it has baulked at. I do congratulate the Liberals on putting their interim target forward, and I am terribly disappointed that the Labor government did not support it.

A couple of times during the debate, I felt that I was sitting in the House of Representatives and listening to Prime Minister John Howard, because his line is the same. Whenever anyone says to him, 'It might cost us something', he says, 'Well, we can't possibly do it'. I felt it was remarkable that that line came to dominate the government's thinking. Yes, to reduce greenhouse gas emissions will cost, it will cost us something, but we are a fabulously rich state (on a global scale) and we can afford it. What is more, there are opportunities. It is not just a question of cost. That is the disappointing thing, that the government has not seen the opportunity of South Australia being a world leader in greenhouse policy.

The Greens' message to the government is that the ball is now well and truly in its court. We have done what we can in this place to try to put some teeth into a fairly toothless mechanism. We have tried to add some bones to flesh. We have tried to make it as easy as possible for the government to use this legislation to make things happen. In relation to the Hon. Mr Ridgway's comments about amendments, I will bring them back. We will come back next session with South Australian renewable energy targets, we will come back with mandatory energy efficiency measures and we will give members more time to consider them. I hope, on reflection, members will support those sensible initiatives as well.

Bill read a third time and passed.

TERRORISM (PREVENTATIVE DETENTION) (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 15 March. Page 1703.)

The Hon. S.G. WADE: On behalf of the Liberal opposition, I indicate our support for this bill. Terrorism is the challenge of our time. Over the last century previous generations of Australians have met the challenge of two world wars and the Cold War. We must now deal with terrorism. This bill updates the South Australian component of a nationally consistent set of federal and state legislation developed to ensure that Australian law enforcement authorities have appropriate tools to deal with terrorism. The commonwealth and the states agreed to legislate at a special Council of Australian Governments meeting on counter-terrorism on 27 September 2005. That meeting was convened in the wake of the London bombings of July 2005.

State and territory leaders agreed to enact legislation to give effect to measures which, because of constitutional constraints, the commonwealth could not enact, including preventative detention for up to 14 days. Parliament passed the Terrorism (Preventative Detention) Bill 2005 and received assent on 8 December 2005. So, why are we back reviewing this legislation so soon? In the second reading speech on the original bill, on 24 November 2005, the minister stated:

> The COAG communique lacked detail, for practical reasons. After the COAG agreement, commonwealth, state and territory officers went to work on draft provisions, exploring every detail of a possible draft bill, the results of which the Prime Minister wanted before the Australian parliament by November 1, 2005. South Australia had, as we all know, a very particular problem. With so few sitting weeks before the break and then an election looming, there was little legislative time and space in which to accomplish the pledge—unless it was to be delayed for months.

This was a straw man. The government puts forward sitting days, the election date was set and the opposition was willing to sit in the new year of 2006, especially for such important legislation. I quote the Hon. Mr Lawson's contribution to the original bill. Referring to the 2005 commonwealth bill, he stated:

> At the time when the bill was introduced, we were the first state to have it introduced into our parliament. This was said to be necessary because of our electoral cycle, which is code for 'because the Premier of the state wants to close down the parliament on 1 December so that this government can escape accountability leading into the election scheduled for 18 March'.

This bill is testament to the fact that this government is willing to rush important legislation to avoid accountability. Secondly, this bill is testament to the fact that this government lacks a regard for basic rights. On 30 November 2005, speaking on the original bill, the Hon. Mr Lawson stated the opposition position, as follows:

> In the event that other jurisdictions adopt different measures or the commonwealth parliament itself amends its legislation in a significant manner, we would certainly want to revisit this bill at the earliest opportunity.

Minister Holloway responded on behalf of the government that the government would not disagree with that position. Yet, here we are, more than a year after the election, and the changes have not been made. We had to wait until the 49th sitting day of this parliament for the bill to be introduced in this house. This bill is not a great drafting challenge. It is basically a transcription of changes to the commonwealth law. While the original 33-page bill could be tabled within two months of the COAG meeting, the government was so committed to minimising the impact on rights that it did not consider it a priority to enact this eight-page bill for 11 months.

Thirdly, this bill is a testament to the Liberal Party's commitment to civil rights. The bill has its genesis in the changes to the commonwealth bill which were made at the behest of the federal Liberal parliamentary party room. The party was concerned that the safeguards in relation to these powers needed to be strengthened. It was the Liberal party which made sure that the impact on rights is minimised.

As I have said, the opposition supports this bill. Like the government, we recognise that terrorism challenges require new tools. Terrorism is fundamentally different to other criminal acts and it requires stronger prevention measures and extra powers not normally required to be dealt with in criminal cases. In this security context the opposition supports the government in enacting terrorism legislation. However, I would express my disquiet at the lack of consistency from the government in this regard. Members opposite are prone to come into this place and display a level of hypocrisy which would make a Pharisee blush. Government members in this parliament regularly criticise the United States government for taking measures that do not accord with the norms of criminal law in the context of terrorism. For example, the member for Enfield, in another place, railed against a list of grievances on behalf of David Hicks, as follows:

> . . . interned without trial; not able to take advantage of any of the laws that we consider to be basic rights like habeas corpus; the right to be presented before a court; held indefinitely; held in inhumane conditions; and not told what your charge is and charged, tried, convicted or acquitted. Hicks has done none of it. The fact that we are participating in this is a disgrace.

According to the member, the holding of David Hicks without charges or trial is a disgrace, but this is what this government does in this bill. A Labor government is appropriately legislating for preventative detention measures. I urge the Labor party to stop playing politics with security. The opposition supports this bill and supports the need for new measures and the need for safeguards. In supporting this bill I also commend my federal colleagues for the wisdom they displayed in introducing the extra safeguards that are reflected in this bill.

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

The Hon. D.G.E. HOOD: I rise briefly in support of this bill. Family First understands that we were perhaps a little too hasty in passing our original bill in this parliament and that the commonwealth law changed just a day after, so this bill tidies up some of those issues in respect of the differences between the two jurisdictions. I will not labour the point in our support of the bill as I have spoken at some length previously in this place in support of it. Suffice to say that we certainly agree with the thrust of the bill.

I guess like all members we have concerns about the trade-off that we seem to constantly face today between civil liberties and the appropriate treatment of terrorists, but we think that this bill is worthy of support. As I have expressed before, we have some concerns to do with the infringement of civil liberties; however, in times such as these, those things need to be balanced against the very important consideration—the most important, in fact—of public safety. For that reason, Family First supports this bill.

The Hon. NICK XENOPHON: I indicate my support for the second reading of this bill and for the general principles it contains. This is perhaps not the time to enter into debate about whether the world is safer since the United States decided to invade Iraq some four years ago. I do not believe it has been, and I think there is a distinction between what is going on in Iraq and what is going on in Afghanistan. Unfortunately, it seems that Osama bin Laden has celebrated, or will be celebrating, his 50th birthday soon. He is the person who was the mastermind behind the September 11 attacks. He is still at large, and he is, without a doubt, one of the most evil people in this world, so I question whether or not we are safer.

Having said that, unfortunately, we need this sort of legislation, but there must be some balance with respect to civil liberties, as the Hon. Dennis Hood indicated. We need to be eternally vigilant that those liberties are not lost, so we need to have appropriate safeguards in place. I note that the Hon. Sandra Kanck has an amendment to do with the ministerial review or report about the bill. I see no harm in that; in fact, I think it would be a very healthy exercise to ensure that we do not have any abuse of the extraordinary powers we are now establishing to deal with the very real threat of terrorism. That is the balance that I think we need.

Since the arrest of 17 people in Melbourne and Sydney in early November 2005, some commentators, such as David Neil in *The Age* of 10 November 2005, have argued for the use of existing laws (or laws that pre-existed the terrorism laws). David Neil said:

> The threat of terrorism is real. But existing criminal laws and procedures have been used to arrest and charge the suspects with existing offences. This does not show the need for preventive detention, control orders or new sedition laws at all.

I do not necessarily agree with him, but I think it is worth reflecting that we do not want to go overboard to the extent that innocent people are caught up in this. I am talking about, for instance, the Cornelia Rau and the Vivien Alvarez Solon cases which deal with immigration laws. These cases indicate that authorities are capable of making serious mistakes. We need to have an appropriate overview, and I think it is very important to bear that in mind in the context of this legislation. That is why I will be supporting the Hon. Sandra Kanck's amendment as one positive step to ensure a level of overview.

I indicate my concerns to mirror the commonwealth legislation. The equivalent body to the Commonwealth Ombudsman's Office that has been chosen here is the Police Complaints Authority. It looks like a statutory authority but, as we have learned in the Statutory Authorities Review Committee, it is not actually a statutory authority subject to the purview of a parliamentary standing committee. I really wonder about the effectiveness of the Police Complaints Authority as an appropriate body to review this, but it seems there are no others—unless members have any ideas in relation to that. I have concerns about the appropriateness of having the PCA as the overview body.

I just ask or put on notice—if it can be answered now or, if not, in due course—whether the state Ombudsman's Office was considered an appropriate review body to mirror the commonwealth legislation, as is the intent of this legislation. Having said that, I look forward to the speedy passage of this bill.

The Hon. SANDRA KANCK: It will soon be four months since I introduced a bill called the Statutes Amendment (Review of Terrorism Legislation) Bill. That was designed to introduce a sunset clause to the two terrorism acts that were hastily introduced in the 50th parliament a year ago. This sunset clause would see each act lapse in the life of each

parliament, and parliament would then choose to pass these acts again or decide that the laws were no longer needed.

The three acts that are under consideration in that bill are the Terrorism (Commonwealth Powers) Act 2002, the Terrorism (Police Powers) Act 2005 and the Terrorism (Preventative Detention) Act 2005, which is the subject of today's amendment bill. These three acts effectively placed our freedoms on autopilot by handing over greatly increased powers to the police and, in the absence of human rights legislation in our statutes, without commensurate checks and balances.

In December 2005, when the 2005 acts were being debated, the Democrats predicted—because of the haste in which we were dealing with them—that we would very soon have an amending bill back in this parliament to sort it. We were passing it even ahead of the federal parliament. I noted the comments earlier this evening of the Hon. Stephen Wade. I commend him for them because he said many of the things we were saying some 15, 16 months ago. This bill has a number of improvements over the existing act, such as greater assistance for people with a disability or without a knowledge of English, the requirement that interrogations be recorded, the provision to the defendant of a summary of the grounds for their detention or the imposition of a prohibited contact order.

Also, it adds a further requirement that the annual report on the operation of this bill details the number of preventative detention orders and prohibited contact orders that a court has found not to be validly made. I indicate that, in the light of my criticisms in December 2005, I am very pleased to see these changes. However, they do not change the fundamental nature of the act, and I will therefore be moving amendments based on the private member's bill that is on the *Notice Paper* at the present time. It is interesting to contrast the government and opposition response to terror with our response to climate change with which we were dealing earlier today.

A number of people—including me and latterly our Premier—have described climate change as a greater threat than terrorism, but we are not acting as if this is the case. The climate change bill, as we discovered, is essentially a voluntary bill. Compare that to the reaction of the Australian and South Australian governments to terrorism. When we debated legislation in 2005, it was pointed out that more than 20 pieces of legislation had been introduced since the attack on the World Trade Centres to increase our ability to combat terrorism. Now we have this bill and, very shortly, we will be considering a protective security bill, which is also part of our response to terrorism.

These figures do not include terrorist-like actions of our national government supporting the bombing of civilians—actions which, in many cases, fuel terrorism; but that is another debate. I know that terrorism is a threat, but it is of less consequence than climate change, a worldwide flu pandemic or the number of people who die in their thousands every day from AIDS. I accept the need to increase protections against terrorist acts, but I cannot understand how the major parties can agree to more restrictions on our freedoms without safeguards. I do not understand how the Labor Party can have forgotten the lessons of the Salisbury affair, when police spied on the trade unionists and community activists who used to make up the heart and soul of that party.

I know that many ALP members would have learned directly from the Latin American and East Timorese solidarity groups of the abuses of human rights that accompany increased police powers. Nor do I understand how Liberal MPs, in a party that is supposedly founded on freedom, could have completely lost the suspicion of centralised government power handed down through their historical affinity with the United States and links with the East European communities that fled the oppression of the Soviet bloc. The historical truth that power will be abused has been graphically reinforced in our time by events at Abu Ghraib, by the detention of refugees for up to seven years in Australia, the disappearance of Cornelia Rau into our detention gulags and the David Hicks show trial.

With this context in mind, it is again worth reflecting on what this legislation does. It gives police the power to detain a person without charge for up to 14 days on the basis of reasonable suspicion. Then, it prevents people from talking about their experience. A person who is detained is allowed to contact only one other person (for example, a spouse or an employer) to tell them that they are safe, but they are not able to say where they are, or how long they will be where they have been detained. This legislation removes the first check on abuse of power by taking the exercise of this power out of the normal court system.

Then, by stopping this matter from being discussed, it removes the second check on the abuse of power—publicity. Imagine what would have happened to Cornelia Rau without publicity.

The operation of this preventative detention regime is overseen by the Police Complaints Authority; in other words, the police will be watching the police. I am not reflecting on our police, but it is a truism, I think, that we need to have independent scrutiny. By way of example, I do not think that we should have politicians guarding politicians, and that is one of the reasons why we need an independent commission against crime and corruption.

The Terrorism Preventative Detention Act 2005 already contains a number of review provisions, including the requirement to report to the Attorney-General and the police minister after the exercise of these powers, and to report annually to parliament. This act expires on the 10th anniversary of its commencement. However, I believe that 10 years is far too long. After 10 years (that is, after more than two parliaments) without our liberties, we will have become used to this new form of authoritarianism. It is interesting to reflect that, in this chamber alone, seven of the 22 members were not members of this parliament when the two terrorism bills were passed 16 months ago.

I propose to amend this bill by adding several clauses to it that would require the minister to cause the operation of the act to be reviewed as soon as practicable after the commencement of the first session of each new parliament following a general election, and to conduct that review within two years of the commencement of this section. That review would broadly report on the extent to which the act is considered necessary, and any other matters determined by the minister to be relevant. The minister would be required to lay a copy of the report before both houses of parliament within 12 sitting days after the report is received by the minister.

My amendments reflect very simple principles that have been tried and tested over and over again in history. They are, first, that power corrupts; secondly, that evil flourishes where there is no scrutiny; and, thirdly, that good people do terrible things when they are afraid. My amendments are not an abstract safeguard against some theoretical or distant abuse of power: they are a necessary protection against the mistakes and excesses that have happened regularly on our watch in the past seven years. In our still relatively peaceful times,

these checks might save another Cornelia Rau or an Australian-born Muslim from persecution. In the event of a real crisis, these checks might save dozens of people from big brother.

These amendments, in my opinion, are not nearly enough. However, there is some small chance that enough members might support this reminder to us and future parliaments that any limitations on our freedoms must be temporary and reversible. Every official entrusted with extreme powers must know that the law's protection of their actions will come under the microscope at least once every four years. I urge members to support my amendments to provide this very modest protection of our liberty.

The Hon. P. HOLLOWAY (Minister for Police): I thank honourable members for their contribution to the debate on this important bill, and I look forward to its speedy consideration.

Bill read a second time.

In committee.

Clauses 1 to 20 passed.

Clause 21.

The Hon. S.G. WADE: Reflecting on the comments of the Hon. Sandra Kanck, the Liberal Party, of course, is very committed to proper scrutiny of the exercise of, if you like, extraordinary powers. It is in that context, in relation to clause 21 which amends the provision in relation to the annual report, that I would ask the government: considering there would have needed to be an annual report tabled after 30 June 2006, will the minister advise whether such an annual report has been tabled?

The Hon. P. HOLLOWAY: My advice is no.

The Hon. S.G. WADE: I think the parliament deserves an explanation as to why that is not the case. We are considering here three tiers of scrutiny that can reassure the parliament that the powers will be properly exercised. Will the government advise when an annual report may be provided?

The Hon. P. HOLLOWAY: All we can do is inquire from the Commissioner of Police. Given my role as Minister for Police, I will certainly do that. I was not aware, until the honourable member raised it, that a report was due. I will certainly take that up and I will undertake to correspond with the honourable member as soon as possible in relation to that.

Clause passed.

Clause 22.

The Hon. SANDRA KANCK: I move:

Page 11, after line 11—insert:

51B—Review of Act

(1) Subject to this section, the minister must cause the operation of this act to be reviewed as soon as practicable after the commencement of the first session of each new parliament following a general election of members of the House of Assembly.

(2) The first review must be conducted within two years of the commencement of this section.

(3) The purpose of a review is to report on—

(a) the extent to which the objects of this act are being achieved; and

(b) whether the legislative provisions under this act remain necessary or appropriate for achieving those objects; and

(c) any other matters determined by the minister to be relevant to a review of this act.

(4) The minister must cause a copy of the report to be laid before both houses of parliament within 12 days after receiving the report.

How appropriate it is, after the question and answer about clause 21, that I move this amendment. As my old high school maths teacher would have said, QED. I made the point in my second reading speech about the extraordinary power that this act gives our police and, because it gives that extraordinary power, we must always keep it under review.

This amendment will require that, after every election, for as long as this act is in place, there will be a review conducted of it. That will allow each new parliament, including all new MPs who did not have an opportunity in December 2005, to have a say as to whether or not it thinks the situation is such that these extraordinary losses of power remain in place. That is what this amendment is largely about; it is about accountability and ensuring that, if parliament decides that citizens of this state should be detained without any real cause, with their rights to free speech removed and so on, it is, indeed, justified to keep it going for another four years.

The Hon. P. HOLLOWAY: The government opposes this amendment. This amendment repeats the provision proposed to be inserted in the act by the Hon. Sandra Kanck's private members' bill, the Statutes Amendment (Review of Terrorism) Legislation Bill 2006. The legislation in South Australia about terrorism was enacted in fulfilment of a commitment made at the Council of Australian Governments (COAG). South Australia agreed to enact legislation in three general areas of criminal law and police powers. Those areas are: special police powers to stop and search people, places and things; special police powers to search items carried or possessed by people at or entering places of mass gathering and transport hubs; and preventative detention laws which top up commonwealth proposals where there is advice that the commonwealth, but not the states, lacks constitutional power to legislate.

The first two of those three commitments were enacted in the Terrorism (Police Powers) Act 2005. The Terrorism (Preventative Detention) Act 2005 dealt solely with the third of those commitments—preventative detention. There can be no doubt that, in so far as these latter two acts gave more power to the police and more power to the commonwealth and state law enforcement authorities, they impinged on civil liberties. It is true that, whenever parliament passes laws which are more restrictive upon people, the parliament is restricting their rights.

The only really interesting question is whether those restrictions are justified. That debate started in the first half of this decade and is still going on in a number of places with a number of different themes. This parliament resolved a series of questions of that kind by passing the legislation put before it on behalf of the Council of Australian Governments and in accordance with the solemn agreement entered into by the Premier on behalf of the state and the people of South Australia. The government thinks that that was the right thing to do. This is simply not the time or place to go through that large and complex debate all over again. Other jurisdictions in Australia have all passed a version of the preventative detention legislation and, faithful to the COAG commitment, each version is almost identical to the other.

In all cases except the ACT, the specified legislative period for review is 10 years. In the case of the ACT, the period is three years. There is only point in a thorough, worthwhile review as opposed to a small, token review if it occurs in a meaningful context. The amendment assumes that South Australia is acting in isolation in legislative action against terror, but it is not. It is clear beyond argument that the commonwealth has assumed primary responsibility for

dealing with terrorism and terrorism-related matters, from intelligence, investigation, detection, prevention, prosecution and punishment perspectives. Nevertheless, it is necessary for the states and territories to have complementary, not primary, legislation.

COAG has agreed unanimously that the legislation underpinning the fight against terrorism must be done on a national, not local, basis. COAG's agreement must be respected. If there is to be a review it must be a national review, otherwise it would be a waste of time and resources. The general agreement of the states is that this review must be complete within 10 years. On those grounds, I urge members to oppose the amendment.

The Hon. S.G. WADE: The Liberal Party is keen to ensure that all extraordinary powers are properly reviewed. We see the need for this legislation to be reviewed, but we are very attracted to the government's point that the parliaments of this country have agreed that we need nationally consistent regimes to deal with a national challenge, and nationally coordinated regimes need nationally coordinated reviews. We agree with the government on that point. In that context, the COAG agreement itself supports the government's position. If I could quote from the COAG agreement of 27 September 2005, it says:

> Leaders also agreed that COAG would review the new laws after five years and that they would sunset after 10.

It seems clear on the agreement that COAG itself would initiate a review within five years. For this parliament to go off half cocked and authorise reviews in each parliament without reference to our sister parliaments and sister governments throughout the nation would, I think, be unhelpful. We should not see that as a derogation of the responsibilities of this parliament. The South Australian government is fully entitled to engage other jurisdictions within the Council of Australian Governments, but the agreements struck in those forums need to come back to this parliament. That is why we have this bill before us. I do not see it as an abdication of our responsibilities. We support the government in seeing the need for these extraordinary powers. We support the government and COAG in seeing the need for the reviews, but we think that the forum for those reviews is appropriately COAG.

The committee divided on the amendment:

AYES (4)

Bressington, A.	Kanck, S. M. (teller)
Parnell, M.	Xenophon, N.

NOES (16)

Dawkins, J. S. L.	Finnigan, B. V.
Gago, G. E.	Gazzola, J. M.
Holloway, P. (teller)	Hood, D.
Hunter, I.	Lawson, R. D.
Lensink, J. M. A.	Lucas, R. I.
Ridgway, D. W.	Schaefer, C. V.
Stephens, T. J.	Wade, S. G.
Wortley, R.	Zollo, C.

Majority of 12 for the noes.

Amendment thus negatived; clause passed.

Title passed.

Bill reported without amendment; committee's report adopted.

Bill read a third time and passed.

STATUTES AMENDMENT (REAL ESTATE INDUSTRY REFORM) BILL

Adjourned debate on second reading.

(Continued from 13 March. Page 1558.)

The Hon. T.J. STEPHENS: I rise on behalf of the Liberal opposition to speak to this bill. The Liberal Party supports the general thrust of this measure but will be seeking some amendments. The member for Flinders and the member for Finniss have stated quite clearly the Liberal Party's position on this legislation in the other place, so I will reduce my contribution. However, I wish to remind honourable members of why we are seeking some amendments. I have had a number of meetings with representatives of industry bodies who have had many good things to say about the bill and its general thrust. For the most part, they say that it is a step in the right direction, but they have also shared their reservations with us. Apart from new amendments dealing with the disclosure of advertising benefits, the opposition's amendments are consistent with those moved by the Liberal Party in the other place, so members may be familiar with our position already.

Our first amendment deals with clause 17 and the fact that, in some smaller regional real estate offices, it is not possible always to have a registered agent available to supervise an office. Our amendment enables another suitable person to manage and supervise as a temporary measure in special circumstances. Amendment No. 2 deals with the registration of bidders. The current principle followed by auctioneers is to use best endeavours to register bidders prior to the commencement of an auction, and that principle is strongly supported by the opposition.

The Liberal Party supports the right of a person to remain anonymous prior to making their purchase at auction, as there are many perfectly legitimate reasons why some people may wish to do so. We share the concern of industry professionals, who fear that potential purchasers could collude with associates to disrupt an auction by registering during an auction, thus disrupting the process. We support the status quo and see no need to make any changes that we believe will affect the auction process. We share the concerns of industry that more auctions would be likely to fail if they were interrupted to register bidders.

Several of my amendments deal with the disclosure of advertising benefits. The opposition is particularly concerned about fairness and practicality and agrees with industry representatives that the real estate industry should not be singled out by the government and prevented from buying at wholesale and selling at retail. No other sector is subject to these restrictions. Industry representatives are also concerned that this legislation will be almost impossible to comply with.

The cost of a discrete advertisement under an agent's banner comprises many elements, and these vary from day to day and week to week. It has been pointed out that there are too many variables, including the nature and extent of the discount, colour (as opposed to black and white), photography, copywriting, placement on page, size, and many other factors. In the unlikely case that agents could accurately identify and disclose the amount of benefit or discount, they would be forced to itemise and charge out for all the other discrete components of the advertising process. This would result in a significant administrative burden for small agencies, in particular, and increased costs, which will

inevitably be passed on to consumers—in short, more bureaucratic red tape.

The opposition also supports multiple declared vendor bids permitted up to but not including the reserve. Our final amendments deal with this issue, as we see no harm in allowing the vendor to put in multiple bids and to drop out once the reserve is reached. I stress again 'multiple vendor bids', but they must be declared. This is supported by the fact that the Real Estate Institute has received no notice of complaints regarding vendor bids from the Office of Consumer and Business Affairs since the Auction Code of Conduct was introduced in 2003.

I place on record my thanks to a number of representatives from the industry who have put in considerable time to brief me and Liberal members regarding their concerns with the bill. They have put in a great deal of work and have articulated their concerns to us well; we share their views on many points. In particular, I thank the representatives of the Real Estate Institute of South Australia and the Society of Auctioneers and Appraisers. The briefings and background they provided to the opposition have been much appreciated. Separate briefings from concerned real estate agents have also been welcome, and they have been most enlightening. Regrettably, the government has opposed all the Liberal amendments in the lower house, but I am hopeful that honourable members will support those amendments in this place with the addition of our amendments dealing with advertising benefits.

The Hon. M. PARNELL: The Greens will be supporting this bill because we support sensible consumer protection measures. We particularly support them when it comes to housing, because the house is nearly always the single biggest purchase that most of us make. Some of us make just one in our lifetime, others make several. Like the member for Mitchell in another place, I heard about the Australian Capital Territory legislation which mandates a point of sale disclosure of the energy efficiency performance of housing. I thought that that was a sensible measure, so I have drafted some amendments, which are on file, which seek to incorporate that type of mandatory reporting into the South Australian real estate market also.

As all members know, we have just finished debating the climate change bill. When it comes to the climate change implications of housing, what we have done in this parliament over the last few years is try to address new housing stock with energy efficient standards, but we have done nothing to address the existing housing stock—that vast bulk of our housing stock that changes hands on average something like once every seven years (I think that is the current statistic) in Australia. So, the most appropriate time to improve the energy efficiency of our housing stock is at the point of sale.

One of the drivers to improve the efficiency of housing needs to be to make it an attractive selling point at the time of sale. The requirement that the ACT has introduced and that I seek to introduce in this bill is for a compulsory disclosure of the energy performance of a dwelling at the time that it is sold. I have also drafted amendments that require two other types of reports. One is a pest report, in particular in relation to termites, and the second one is a basic structural building inspection. As I see it, the beauty of this regime is that the vendor, through the agent having provided such reports and making them available to all potential purchasers, can, in fact, decrease the cost of housing overall. The reality at present is that, often, a number of potential purchasers will go out and seek the same information from different sources in relation to the same property. Anyone who has been in the market for a house might know that if there are three or four that you are interested in you can spent a fair bit of money getting reports on all the houses.

In order for markets to succeed, they need to be based on quality information. My amendments seek to the improve the quality of information available to purchasers. As well as a situation where everyone goes out seeking the same reports on a single house, the flipside of that coin is that many people do not bother doing any checks at all. The law is fairly unforgiving in that circumstance—caveat emptor—let the buyer beware. If you buy a house and you do not take steps to find out whether it is riddled with termites, be it on your head. It seems that we need not have such a risky situation. We can have these mandatory point of sale reports.

In conclusion, because I know time is limited tonight, I will just touch on the two main criticisms of these amendments because they were canvassed at some length in another place. One criticism is that the quality of service might be poor, that vendors might do a fairly shoddy job, and they might provide misleading or inaccurate information to purchasers. My response is that we have trade practices laws and consumer protection laws that deal with that type of situation.

The other main criticism relates to the cost of such reports. Members might be interested to know that in the ACT there is now a flourishing market. Businesses have developed around the need to provide these reports. If you go to the Google site on the internet and type in 'home buyers inspection ACT', you will see a range of businesses that have set up to cater for that market. One that I have just pulled off the internet (I will not name the company) offers a service for $580 that includes these reports. There is a 10-day turnaround, but if you are in a hurry you can pay for a faster service.

I think these are sensible amendments. I know we are going into the committee stage tonight, so I will speak to them at greater length at that time. However, in the interim, I urge honourable members to have a think about improving the quality of information that vendors provide to purchasers. I urge members to support these amendments when we get to the committee stage.

The Hon. NICK XENOPHON: I indicate my support for the second reading of this bill, and I endorse the remarks of previous speakers tonight. Essentially, this bill has a number of useful features, but I, too, have some reservations about the bill in that I believe it ought to go further. However, I do need to comment on what I think is a very churlish and misleading media release put out earlier today by the acting minister for consumer affairs, the Hon. Michael Atkinson. The media release is headed 'Upper house meddling jeopardises real estate reform.'

The Hon. G.E. Gago interjecting:

The Hon. NICK XENOPHON: The Hon. Gail Gago very helpfully suggests that it is lucky that we are independent of them.

The Hon. G.E. Gago: Tongue in cheek.

The Hon. NICK XENOPHON: Yes. There are a number of misleading statements contained in that press release. In relation to the issue of—

Members interjecting:

The Hon. NICK XENOPHON: I just want to focus on this, because I am aware of the time. It has been a very long

week for us, so I will set out these points as succinctly as possible. First, the acting minister for consumer affairs had a go at the opposition about the rebate sections (clause 24(d) of the reform bill). I have heard the argument from the Real Estate Institute that smaller agents will be disadvantaged because big agents will get up to 40 per cent or whatever, whereas small agents might get, on average, a 10 per cent rebate, which will further marginalise smaller agents.

My view is that there ought to be some transparency in terms of disclosure, and I query whether a middle ground can be reached so that consumers get that level of transparency. However, there also has to a sensible middle ground to acknowledge that there are costs involved in preparing advertisements and the like. I can see the government's point, but I wonder whether there is some scope for amendments that would reflect the comparative disadvantage small businesses have in relation to this issue.

I take issue with the Attorney when he says that my amendments will, in effect, dilute the strong provisions that ensure agents declare benefits and third party deals. I indicate that I have tabled amendments, which I will obviously discuss in the committee stage. However, the gist of them is that, first, with respect to the government's proposal to have only a single vendor bid at an auction, the opposition wants unlimited bids and I am seeking the middle ground of three bids but they cannot go beyond the reserve; it is about kicking off the auction. We need to consider the vendor's point of view in this because, ultimately, every purchaser will be a vendor one day, and vice versa, and we need to consider that. The other reform is something that the industry has sought (and I am surprised the government has not picked up on it), and it relates to conflict of interest. What I am proposing—and, again, I will discuss this in detail in the committee stage—is to force the government and the industry to sit down and put a set of regulations in place.

Where there is a conflict of interest, where a property is sold without its being put on the market appropriately and without there being an open bidding process, where there is a developer lurking in the wings with whom the agent has a commercial relationship or understanding, then there ought to be the requirement to have an independent valuation of that property so that vendors—particularly the elderly and the vulnerable—are not disadvantaged. That concern was expressed to me by Mark Sanderson, President of the Real Estate Institute; and I commend him for doing that. I hope we can strengthen the bill in that regard. I think there are a number of very good features in this bill. It would be remiss of me not to congratulate and commend the member for Enfield for the work he has done in relation to this matter.

The Hon. T.J. Stephens interjecting:

The Hon. NICK XENOPHON: Sorry?

The PRESIDENT: Order! The Hon. Mr Xenophon will ignore interjections; they are out of order.

The Hon. NICK XENOPHON: Thank you, Mr President, for your robust protection. The member for Enfield deserves to be commended. It shows the calibre of that particular member. I know many scratch their head about his not being on the front bench—but that is another matter. I support the second reading of this bill, and I do commend the government for bringing forward a bill with a number of good features.

The Hon. G.E. GAGO (Minister for Environment and Conservation): I thank members for their contributions to this important piece of legislation. This bill implements the recommendations of a review of the real estate industry commissioned by the Minister for Consumer Affairs in 2003. The reforms contained in the bill are wide reaching and largely supported by the industry. The bill addresses concerns in the community about practices such as dummy bidding at auctions, over quoting by agents to secure listings and bait advertising. The reforms will establish clear standards for land agents about lawful and ethical behaviour in the selling of real estate and address undisclosed conflicts of interest and other misleading or deceptive conduct by agents; that is not to suggest that all agents do participate in those behaviours—but at least some do. The measures are designed to be practical and enforceable solutions about concerns relating to the lack of transparency of real estate sale processes.

I acknowledge the member for Enfield for the considerable work he has done over a long time in relation to this matter. I thank the officers from the Office of Consumer and Business Affairs for the work they have done preparing this legislation, and for the consultation work that has been done with all the industry stakeholders to get to this position. I believe that this bill will restore the confidence of South Australians in the process of purchasing their home and I look forward to its being passed through the committee stage in a timely manner.

Bill read a second time.

SUPPLY BILL

Second reading.

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

That this bill be now read a second time.

This year, the government will introduce the 2007-08 budget on 7 June 2007. A Supply Bill will be necessary for the first three months of the 2007-08 financial year until the budget is passed through the parliamentary stages and received assent. In the absence of special arrangements in the form of the supply acts, there would be no parliamentary authority for expenditure between the commencement of the new financial year and the date upon which assent is given to the main Appropriation Bill. The amount being sought under this bill is $2 000 million. Clause 1 is formal, clause 2 provides relevant definitions and clause 3 provides for the appropriation of up to $2 000 million.

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

CRIMINAL LAW (SENTENCING) (DANGEROUS OFFENDERS) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 1819.)

The Hon. R.D. LAWSON: Before the adjournment, Mr President, you were mesmerised with my remarks on this bill, so I thought I would give you some more mesmeric thoughts. As I was mentioning, the Criminal Law Committee of the Law Society had a number of comments to make about this bill, which comments I think are appropriate to put on the record. My colleague in another place Isobel Redmond, the shadow attorney-general, did outline a number of the concerns expressed by the Human Rights Committee of the Law Society regarding this measure. In particular, she

highlighted the fact that the Human Rights Committee took the view that this bill is introducing disproportionate punishments inconsistent with instruments relating to human rights. We do not share that view.

I have said that we have misgivings about aspects of this bill, but for us the important principle is ultimately judicial oversight of criminal proceedings. To some extent, this bill is reducing judicial oversight and judicial control but not, we believe, to the extent that it infringes important principles of the independence of the judiciary. The government, in this bill, is coming close to politicising the criminal justice system by giving to the Attorney-General, specifically, certain powers in relation to indefinite detention.

It is interesting to see the move that has taken place over recent times. Previously there was agreement across the political spectrum in South Australia that the prosecutorial decisions should be left to the independent Director of Public Prosecutions. That was a measure introduced by the Labor government, and supported by the Liberal Party at that time. We notice, with a number of amendments that have been made more recently, that the government has been seeking to invest, not the DPP with discretions, but the Attorney-General.

We saw it first when the Criminal Law (Sentencing) Act was amended to give power to the Attorney-General to apply to the Supreme Court for a guideline sentence in relation to particular categories of crime. Previously, the DPP alone had that discretion; it was given to the Attorney-General. It was given for the transparent political purpose of enabling the Attorney-General to go on the Bob Francis show—that is when he was allowed to go on the Bob Francis show, when he was still welcome there—on the public airwaves, saying, 'I've got a guideline sentence. I've asked the court. I've told them this is necessary, and they've agreed.'

Unfortunately, he had egg on his face as a result of that. The first guideline sentence application that was made by the Attorney-General was an application to say there ought to be standard sentences for causing death by dangerous driving. The reason the Attorney-General gave to the court for that was that there was inconsistent sentencing. The court said, 'Well, let's have a look, let's have a look at every case, let's see the inconsistencies', and he could not find any inconsistencies. The circumstances of every case were so different one could not say that there was any inconsistency being applied. So, the Attorney-General had his case thrown out. What did he do? He was on those airwaves again saying the judges had done a terrible thing, they would live to regret this and they would have their discretions taken away.

In relation to serious sex offenders, once again, the Attorney-General, not the DPP, was given certain powers to make applications. With these offences here, the Attorney-General is given the sole power to make application for indeterminate sentences: that is the argument of the Attorney-General. The sole determinant of what is an offence to which these provisions apply is the Attorney-General—'if the Attorney-General is of the opinion that'—and the section goes on to provide that there is no possibility of judicial review of the Attorney-General's decision or an appeal against the Attorney-General's decision on that. That is something about which we have serious misgivings.

We notice that not only is the Attorney-General the sole determinant of the so-called prescribed circumstances in relation to dangerous offenders, but that once that application is made and once the court is satisfied, on the balance of probabilities, that the release from prison of the person in respect of whom this application is made by the Attorney-General would involve a serious danger to the community, or to a member of the community, the court is required to declare the person to be a dangerous offender and order that the non-parole period fixed in respect of the sentence (in the case of a murder) be negated.

We have concerns about the apparent requirement that the court have no discretion, although of course I suppose one might say that the court should not have a discretion if it is satisfied on the balance of probabilities that the release from prison of the person would involve serious danger to the community. Once you place that invidious decision with the court, one would have thought it is inevitable that the court would have to make the declaration, but we would like to hear a better explanation of the reason why the court is required to make that declaration.

We note also that proposed section 33B provides that these new provisions do not affect the powers and authorities conferred on the Governor in relation to parole. Members would appreciate that, at present, persons who are found guilty of murder are required to be sentenced to life imprisonment and the court has the power to fix a non-parole period and the applicant may make an application for parole to the Parole Board after the expiration of that non-parole period. The Parole Board, if it decides that it is appropriate and agrees upon the conditions of parole, will make a recommendation to that effect to the Governor—in effect, to the government—and the government has the power to refuse to accept such a recommendation.

That is really an extension of the old prerogative of mercy that the Crown in our system of justice always had—a prerogative to reprieve, in the old days of the death sentence, and to pardon, etc. I believe it is an important residual power of an elected government—one that ought be very sparingly exercised—but the government in this bill is seeking to retain the ultimate power in relation to accepting or rejecting recommendations of the Parole Board and also to have the additional power vested in the Attorney-General of making an application if the Attorney-General is satisfied that certain circumstances are complied with.

Before coming to the Law Society's view, I should, for completeness, mention also a couple of other cases to which I have had to make reference in preparing these comments. I have mentioned some of the High Court cases, and I mention also the case of Fardon v Attorney-General for the State of Queensland, in which it was decided that the Dangerous Prisoners (Sexual Offenders) Act of that state, which has similar powers of detention, was not contrary to the principle established by the High Court itself in the case of Kable. Notwithstanding arguments that the legislation necessarily involved the Supreme Court of Queensland exercising powers that were not purely judicial, the High Court ruled that the legislation in Fardon's case was appropriate and constitutional. I mention also a recent decision of Murray v The Queen decided by the Court of Criminal Appeal of the Northern Territory in which a similar decision was made in relation to comparable provisions of the Northern Territory legislation dealing with indefinite sentences.

The Criminal Law Committee of the Law Society submitted to the government, and I imagine to all members, on the 26th of this month six pages of comments on this bill. I mentioned that the Human Rights Committee of the same body had submitted a long paper earlier. I am personally grateful to the Law Society's Criminal Law Committee for

making these comments, notwithstanding the fact that they came fairly late in the day. I do not hold that against them at all. The members of the committee give their time voluntarily. They provide sound comment to the legislature. I always welcome it, although I do not always agree with it, but I certainly feel a lot more comfortable seeing the passage of any legislation if we have had at least the benefit of the comments of those practitioners who are most familiar with the way in which our criminal law operates. I will not read the whole response of the Law Society.

The first point raised relates to the fact that the legislative scheme of this bill is to make gaol sentences longer, and it makes this perfectly reasonable point:

> Criminologists largely agree that increasing prison populations will arrive at a threshold which becomes counterproductive and result in increasing crime.

The committee calls for a better understanding and analysis of the need for measures that protect the community, and I made comments about this earlier in my address this evening, namely that the second reading explanation given in relation to this bill does not provide the sort of cogent analysis that would inspire anybody to have confidence that the government has a sound grasp of principle rather than political expediency.

The committee suggests that formal procedural requirements in relation to applications by the Attorney-General should be set out in the legislation. It does not specify precisely what steps. We certainly believe this legislation requires to be tidied up, and we look forward to the committee stage of this bill. We are glad that there will be an opportunity during the forthcoming break to analyse further these procedural aspects. I understand the government itself proposes to make some amendments and, if that is the case, I certainly welcome it because, as these comments show, improvements are required. The committee comments, as we have, about the undesirability of the role of the Attorney-General and how it compromises independence, and it believes it will lead to the further politicisation of a process which has already unfortunately become politicised.

I would certainly appreciate the minister's comments on the third of the matters raised by the Law Society to which I refer, namely the time frame in proposed section 23(2a) for applications which can be made every 12 months. The Law Society believes that that length of time is too short, especially having regard to the fact that it certainly takes some months to determine any issue through the Supreme Court. I would welcome the response of the minister to that proposal.

Fourthly, the Law Society makes the comment about the use of the expression 'exceptional circumstances'. It describes it as unduly restrictive and it suggests that, if there is a discretion to deviate from the 20-year mandatory minimum non-parole period, the discretion should be unfettered. That is a particular position. I know that some members will share it. Whilst we are not entirely happy about exceptional circumstances, if we are to have a system of this kind, we cannot have an unfettered discretion in the judiciary. That would be entirely self-defeating.

The Law Society makes the point—which I do not agree with—that the second reading explanation suggests that the 20-year non-parole period is designed particularly for heinous offences of murder. That is not my reading. The effect of this legislation is that, if someone is found guilty of murder, they will receive a non-parole period of 20 years, except if there are exceptional circumstances. So, this is not for the most heinous offence of murder; it is actually for the run-of-the-mill offence of murder.

The Law Society also expresses the view that there is no expressed theory or logical basis for requiring somebody who is sentenced to life imprisonment to serve either 20 years or, for other serious offenders, to serve four-fifths of their sentence. That is a point that I have made a number of times. Criminal lawyers take the view that fixing non-parole periods for serious offences at four-fifths of a head sentence is not supported and it will not achieve protection for the community. While I have to part company there, I think it will achieve a measure of protection for the community, but it is a fairly limited measure of protection. It is a protection for such additional time as the offender might be incarcerated, but when that offender is ultimately released—as undoubtedly most of them will be—the protection will cease. It is only protection whilst the person is behind bars.

If anybody thinks that people coming out of our goals after even extended periods of time are invariably better people than when they went in, that they are rehabilitated or educated as a matter of general principle, they are fooling themselves. Of course, if they are kept in gaol until they are so elderly that they are incapable of causing physical harm to others, then a measure of protection has been achieved.

Seventh, the Law Society raises the point that proposed section 32(10) will treat, in effect, the offence of conspiracy to murder and also the offence of being an accessory to a murder in exactly the same way as somebody who is guilty of murder. There would be many cases where conspiracy to murder or being an accessory to murder is an offence which is as heinous as the murder itself—the same degree of criminality and consequences might be involved. But one can argue—and, I think, argue strongly—that there is quite a different quality, generally speaking, between those offences.

The comment is made that there is no recognition of the proportionality that ought to exist in every sentence. We are not convinced that it is appropriate to alter this provision. If one looks at the very few cases concerning conspiracy to murder, one cannot see that this will be a major issue. Fortunately, as I mentioned before, there will ultimately always be the judicial discretion to be applied if there are exceptional or unusual circumstances.

Eighth, the Law Society criticises once again the fact that the Attorney has the power to apply to have a person declared as a dangerous offender. The society says that it should reside with the DPP, and we think there is a good deal to be said for that. However, we notice that in some other states the power is vested with the Attorney-General, in some it is with the DPP. In our criminal law at the moment the Attorney-General has a power in relation to serious sex offenders. The matter has become confused, and during committee I will be interested to hear the justification for this approach.

Ninth, the Law Society criticises the fact that the Parole Board's powers will co-exist with those which exist under this new legislation. They regard that as a double standard and the executive having it both ways. Lastly, the Law Society makes the point that the transitional provisions in section 10 make this regime retroactive. The society claims that it offends the basic principles of retrospective legislation; but, as I indicated before the dinner adjournment, the fundamental principle of retroactive criminal law is that legislature should not make illegal now an act which at the time it was committed was not illegal. As early as 1651, Thomas Hobbs wrote and expressed very clearly the concept as follows:

> No law made after fact done can make it a crime for before the law is no transgression of the law.

The American Constitution prohibits ex post facto laws. Article 7 of the European Convention on Human Rights provides that no-one shall be held guilty of a penal offence made so retrospectively, and the International Covenant on Civil and Political Rights states:

> No-one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed.

These are the principles of retrospectivity, and we uphold those. This legislation does not make illegal but does alter the punishment regime in relation to acts. No-one who committed an act of murder and who is found guilty of an act of murder can, if the punishment regime changes—not on the basis of a whim but on the basis of some principle, namely, that that person's release into the community would represent a danger to the community—complain that any elected parliament changes the law. We will be supporting the second reading. We look forward to seeing government amendments in committee.

The ACTING PRESIDENT (Hon. I.K. Hunter): I apologise to the chamber. Once again the chair found himself mesmerised by the incomparable eloquence of the honourable member whilst on his feet.

The Hon. M. PARNELL: The Greens are opposing this bill. I was most surprised to hear the Hon. Robert Lawson speak of supporting the bill, yet 90 per cent of his contribution dealt with the problems with it and reasons why it should be opposed. I will not go over all the same material covered by the Hon. Robert Lawson, but I want to raise a couple of issues. Again, I offer my thanks to the Law Society for the provision of information. I had received the Human Rights Committee report of the Law Society but I had not received the Criminal Law Committee's report. I rang them up, and I think perhaps I am the reason why the Hon. Mr Lawson eventually did get that report in a timely manner.

I wanted to know whether the criminal lawyers of this state held the same view as the Human Rights Committee, and I found that they did. They are opposed to this legislation—and I note that the Criminal Law Committee of the Law Society will be made up of both prosecutors and defence lawyers, so it would reflect the balance in that sector. I can see no justification for this legislation in the minister's second reading explanation: it seems to me to be unnecessary. It also overturns long-established practice in the sentencing of criminals—a practice that has served us more or less well over a great period of time.

We can all relate to cases where we have seen some terrible crime on television or heard about it on the radio, and we have formed a view that they should throw the book at this person; lock them up and throw away the key. However, we never have the benefit of all the information. I know that the Law Society takes the education of the community seriously, and during the annual Law Week it often runs workshops and seminars on sentencing law. Typical of such a seminar might be that you would start off with a fact situation and the people in the audience would all be wanting to string the person up and never let them out of gaol; as far as the audience is concerned, they are the most wicked person to set foot on the planet. Then, as information is presented to the seminar participants, they start to think, 'Well, there are some other circumstances here; there are some facts which, when taken into account, might lead us to think that there is scope for a lesser sentence.' Ultimately, it is the discretion of our courts, guided by the legislation provided by parliament, that decides the appropriate penalty in each individual case.

The Law Society Criminal Law Committee stated:

> The current sentencing regime as comprised of the penalty imposed by legislation and sentencing standards as evolved over many years have been operating on a consistent basis for a very lengthy time. The underpinnings of this sentencing regime have been arrived at over a lengthy period of considered debate, in the Parliament and in the Courts, in particular, in the Court of Criminal Appeal.

So, it is a system that has worked for a great period of time. In writing to us, the Human Rights Committee of the Law Society focused on the principle of proportionality; the principle of the punishment fitting the crime. The Hon. Robert Lawson quoted Hobbes and the punishment fitting the crime—I was going to quote Gilbert and Sullivan, but it goes back further than that, and even further than Hobbes. As the Law Society's Human Rights Committee pointed out, it goes back as far as the Magna Carta. The letter from the committee stated:

> The principle that criminal penalties should be proportionate to the gravity of the offence committed can be traced back to Magna Carta, chapter 14 of which prohibited excessive amercements and, in the words of one commentator, 'clearly stipulated as fundamental law a prohibition of excessiveness in punishments'.

This principle of proportionality has been around for a very long time, and the custodians of that principle have largely been the members of the judiciary.

The next point I want to make is that it seems to me (and to the Law Society) that these measures will not work. If the object of these measures is to keep the community safer and to reduce levels of crime then, on all available experience, it will not work. The Law Society's Criminal Law Committee stated:

> Increasing prison populations—effectively by increasing prison terms—has failed as a means of reducing crime or the protection of the community. As a political measure it has been recognised as a failure.

I disagree with the Law Society in that respect, because having now spent a year in this place, it seems to me that, as a political measure, saying that you are tough on crime and increasing penalties at every opportunity is, in fact, a remarkable formula for political success. I made the comment the other day, as the Greens' considered amendments to legislation were being knocked off one at a time, that if I had peppered them with a few penalty increases, maybe the more considered amendments might have got up. The Criminal Law Committee went on to state:

> Law and order by increasing prisoner numbers is not going to be a successful, necessary or appropriate response to crime rates, seriousness of crimes or the needs of the community. The approach to law and order and reduction of crime as a means of protecting the community is more properly and efficaciously concerned with rehabilitation, mental health treatment, drug treatment, education, job training, resocialisation, housing and related matters. This is the more accepted view.

I agree wholeheartedly with that approach. Finally, the Law Society's Criminal Law Committee states:

> Criminologists largely agree that increasing prison populations will arrive at a threshold which becomes counterproductive and result in increased crime.

I accept that statement, as well. In fact, the very first essay that I wrote, as a young and bright-eyed law student in Melbourne in 1978, was on that exact topic; with the increase in penalties in England in the 1700s, where they imposed the

death penalty for just about everything from stealing a loaf of bread to whatever you like, the result was that it did not work. The judges were reluctant to impose it. They would deliberately try to devalue property stolen. It really does become counterproductive over time. We are not talking about the death penalty, but the principle is the same; we are talking about increasing penalties.

The Hon. R.D. Lawson: They did worse; they sent them to Australia!

The Hon. M. PARNELL: And some of our ancestors came into this honourable place and we are now trying to fix their mistakes. The final thing I will say against this bill is that we do have a problem with it being retrospective. The Law Society's Criminal Law Committee states:

> The effect of the legislation by virtue of the transitional provisions in section 10 is to make it retroactive. This offends the basic principles of retrospective legislation. The parliament of South Australia has historically made it clear that retrospective legislation will not be sought to be utilised. This represents a further example where such basic principles by which the community conducts itself and which reflects basic principles of human rights is interfered with by the introduction of such retrospective legislation.

I know that the Hon. Robert Lawson has said, 'This is not retrospective legislation,' and he has referred to Hobbs and Kelvinator—was it? He says that a definition of retrospective law is: the law should not make illegal now something which was not illegal when it was done—the Hon. Robert Lawson defending that principle, but saying it does not apply. Curiously, when we were discussing—as we were yesterday—the fate of one David Hicks, the criminal charges that were brought against him were clearly retrospective and yet we do not have the same opposition to retrospectivity from members in this place in that particular case. The Greens will be opposing this legislation and we urge other honourable members to do likewise.

The Hon. D.G.E. HOOD: In my research for this bill, I met with someone (and I do not want to be too specific in identifying this individual) who is a very senior member of the South Australian legal fraternity—if I can put it that way.

An honourable member interjecting:

The Hon. D.G.E. HOOD: I would say perhaps even slightly more senior than the Hon. Robert Lawson, believe it or not! In my discussions with this gentleman I put the bill to him and asked for his comments and feedback on it. He, to my surprise, was actually wholeheartedly in support of the bill. I had expected that he would not be because, generally speaking, I find that people in the legal profession lean to the left, if I can put it that way; not always, but often.

An honourable member interjecting:

The Hon. D.G.E. HOOD: Quite shocking—a shocking revelation! This gentleman said a few things which I think some members may take issue with, but these are his words. He said (in his own words) that this justice system is slanted heavily towards the defendant; that in cases in which he has been directly involved there have been significant numbers of what he believed were guilty offenders who walked free because of imperfections in the justice system. In his own words, the level of sentencing in this state is pitiful—that was the word he used, 'pitiful'. I will be careful not to identify the gentleman.

When I asked how much it impacted on him when a particular sentence was given that was not at the level that he believed it should be, he said that judges often gave sentences that were on the lenient side because of the high likelihood and the fear they held that they would be overturned either in higher courts or by the full bench, in some cases. So, even amongst the most senior legal professionals in our state, certainly in this individual's case, there is in their minds reason for change. We have heard arguments to the contrary tonight, and we have heard from the Law Society on this bill. Frankly, I cannot be more blunt than to say that I am not surprised that the Law Society is opposed to the bill. What a surprise! It seems to constantly oppose any tightening of sentences or anything.

But let us be clear about this: this bill is for serious offenders, for people who make people's lives a misery. We have heard about the principle of making the punishment fit the crime, but what punishment is appropriate for someone who murders someone? What punishment is appropriate for someone who ruins a family's life forever by killing a husband or wife, a mother, a sister, a daughter or a brother, whoever it may be? What punishment is appropriate? Very, very severe punishment. For that reason, Family First will support this legislation and we commend the government on it. We think it is good legislation. I would like to highlight a couple of other things that this senior member of the legal fraternity said. I will not detain the council very long, but it is important for these comments to be noted.

He also said that the proliferation of the legal aid system, not only in South Australia but across Australia, has resulted in more and more pleas of not guilty, in his view, even though many of them would still be guilty, and he would have good access to information on both sides of the argument. He believes that the proliferation of the legal aid system has resulted in more and more pleas of not guilty and it has just clogged up the court system, so that not only is justice more difficult but it takes considerably longer. To summarise his comments, his view was that this bill is a very good measure indeed. Probably members in this chamber will not be surprised to hear that Family First wholeheartedly supports that view. I want to comment on a few of the specific clauses and put a few reflections on the record.

The first is clause 5, which really talks about the concept of protecting the community, something that the government spoke about during the election campaign. To some extent, this represents a fulfilment of one of the promises made during the campaign. This is the fundamental heart of this bill, and again Family First wholeheartedly supports this. There is no excuse for some of the actions that require very severe penalties. There is no excuse for someone showing extreme levels of violence. Some may argue that, if you put them behind bars for an extended period, it does not stop other people doing that. Fair enough: I accept that; but it stops them doing it. Why? Because they cannot. They do not have access to the general community. For that reason, we support the thrust of this bill.

Clause 8 talks about minimum sentences for murder and sets at least a 20-year non-parole period. Again, we support that. Twenty years sounds harsh, but the impact of a lost family member through violence—which has happened in my extended family, not my direct family—is devastating to those family members and can never be repaid. It is appropriate to have very severe penalties in that case. Family First would like to see the concept of minimum sentencing extended. For example, I commented in the media recently about a drug dealer, dealing in significant indictable quantities of drugs, who was given a slap on the wrist with a $500 penalty despite it being their fourth offence of selling drugs of indictable quantities.

This person's life was making a living out of other people's misery and on their fourth offence they got a $500 fine. It is an absolute disgrace and that is why we need measures such as these, because the judges, frankly, do not do it. If it is not legislated at a level that is appropriate, the judges simply do not do it, and for that reason the parliament has to act. Clause 8 also talks about minimum non-parole periods, and we certainly support that. In fact, the council would be aware that I recently introduced a bill that looked at a parole period of a minimum of 75 per cent of the head sentence for drug dealers. I note that in this particular bill the non-parole period is four-fifths of the head sentence, which, again, we support.

Clause 9 gives the Attorney-General power to apply to the Full Court to negate non-parole periods for dangerous prisoners. We support that clause also. It is appropriate for the senior legal person in the state to have that sort of discretionary power. It needs to be used reservedly, but it is appropriate that he have those powers where, frankly, the system just does not work. With those few words, suffice to say that Family First supports this bill.

The Hon. SANDRA KANCK: There are only two ways to make any sense of this bill. Either it is incompetent—and I say that because it attempts to build a uniform response to the incredibly diverse circumstances that surround murder and other serious crimes—or it is yet another example of the Rann government using law and order as its primary public relations strategy. Let me deal first with the possibility that it is the result of incompetence. This bill was supposedly drafted to protect society from prisoners such as Bevan Spencer von Einem. It provides that convicted murderers will serve a minimum of 20 years in gaol and, where a victim has died or been left incapacitated, the offender will have to serve four-fifths of the head sentence.

While that may be applicable to a cold-blooded murderer, it could just as easily apply to a foolish young man who tragically kills his best friend while car surfing. Is this what the government intends? I ask honourable members to cast their mind back 20 to 25 years ago when a number of women were acquitted or treated very leniently for killing (sometimes in their sleep) a violent and abusive husband. We came to understand that these women were suffering from battered wives syndrome. Such women, who are themselves victims, would be netted by this bill.

It also hardly bears repeating that sending anyone but the very dangerous to gaol is stupid and costly public policy. We know that gaol is the university of crime and to incarcerate young people, in particular, is to ensure that they will end up hardened criminals. But this is, after all, a government that spends more on gaols than on schools and that prides itself on locking up more people. So, that is the first interpretation of the bill; that the government is incompetent and has not looked at the implications.

Now for the second way of attempting to understand this bill. Could it be that it is a cynical appeal to base desires for revenge and scapegoating? Under the Old Testament view of the law that runs through this bill—that is, an eye for an eye and a tooth for a tooth—our legal and judicial system would not be allowed to view the circumstances of these cases with any compassion or to make any attempt to understand the context of the crime. I should stress to members that I am not firmly advocating either of the explanations for interpreting the bill at this point; I merely offer them for consideration by members.

I am certainly not the first person to point out that this government is forever trumpeting tough new laws. Even though research has shown that it is the risk of detection, not the severity of the sentence, that deters crime, the Rann government continually introduces new laws that focus on some offence or another. This legislative hyperactivity can give governments and other ambulance-chasers the opportunity to be seen to protect the community from the threat they have hyped up and then find a scapegoat or a common hate object.

I was told recently that crime is Rann's *Tampa*: Rann focuses community anxiety on criminals while Howard did the same for refugees. Whichever explanation you prefer it is clear that the people of South Australia can no longer trust their politicians to make sensible evidence-based laws. In fact, this legislation highlights to the Democrats the need for a law reform commission that can take the politics out of law-making.

I will now comment on the specific provisions of the bill, and I will draw heavily on the Law Society's submission in so doing. Section 23(2a) gives power to the Attorney-General to make successive applications to the courts. The Law Society advises that procedures for section 23 proceedings generally are somewhat ad hoc and not sufficiently identified and defined in the legislation. The power for the Attorney-General to bring section 23 applications creates the perception that the process is being politicised. Section 23 applications, I believe, should rest with the DPP to ensure independence.

The time frame in section 23(2a) for an application that could be made every 12 months is too short. The process would be barely heard and determined within that time frame. The time frame for applications should be extended to every three years and should be a proviso that a substantial change of circumstances have arisen to justify making a further application. The introduction of section 32(5), which provides for a mandatory minimum sentence of 20 years for an offence of murder, is not supported for the reasons I gave earlier. The qualifier, enabling a lesser period 'because of the exceptional circumstances surrounding the offence', is unduly restrictive.

The minister's second reading explanation suggests that this legislation is designed for particularly heinous offences of murder, but such offences do not attract nonparole periods of less than 20 years, so this legislation is unnecessary. However, passing unnecessary legislation to make it look as though it is doing something is now standard operating procedure for this government. The current sentencing regime has evolved over a lengthy period of considerable debate in the parliament, in the courts and, in particular, in the Court of Criminal Appeal. The law is not perfect, and the legal profession does need reform from time to time. The struggles to ensure that the perspectives of women, children and indigenous people are taken into account by the legal system are a case in point. But the government is proposing drastic changes without any evidence of the need for them or any coherent view about the impact they will have on victims, offenders and society as a whole.

Fixing nonparole periods for a serious offence at four-fifths of the head sentence is something I cannot support. The example I gave earlier of the tragic but foolish car surfer is a case when someone can be killed, but it makes no sense to see the perpetrator as a serious threat to the community. Nor can I support the amendment to section 32(10) to effectively increase sentences for conspiracy to murder, or for a person

guilty as an accessory, to such an extent by requiring a minimal nonparole period of 20 years is disproportionate and runs into the same problem as a fixed penalty for murder: the circumstances are incredibly varied.

Section 33A gives power to the Attorney-General to apply to the courts to have a person declared to be a dangerous offender. This power should rest with the DPP so as not to give rise to a perception of politicisation of the process. The effect of the legislation is to have a person declared to be a dangerous offender and mandate that the court order that a nonparole period be fixed in respect of the sentence of imprisonment for murder be negated. I believe that this section is an interference with the sentencing process and, therefore, the independence of the courts. The transitional provisions in clause 10 are to make this legislation retroactive. The risks of retrospective legislation are well understood and, as a result, retrospectivity has generally been opposed by this parliament, unless very good reasons exist to the contrary. I have not been presented with sufficient arguments to convince me that this is justified.

The bill includes prescribed circumstances, which consist of a determination by the Attorney-General that a sexual offence has been committed in the course of a murder. This strange provision does not rely upon a conviction, finding of guilt or other factual finding that the offender committed a serious sexual offence against or in relation to the victim of the murder. These sorts of powers should be based on factual findings, whether by a guilty plea, a guilty verdict or other factual finding, rather than the opinion of a politician. In conclusion, while there are several different provisions which merit support, this bill on the whole encapsulates the worst of our current parliament.

Members interjecting:

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): The Hon. Sandra Kanck is competing against a number of other voices at the moment.

The Hon. SANDRA KANCK: It is part of the process of turning law and order, unfortunately, into a political football. This government is helping to turn legislators into ambulance chasers. I have heard reports of certain MPs hanging around the courts, no doubt looking for some high-profile case to leap onto. I have no doubt that the job of some political staffers is to avidly leaf through the court pages every day to see whether there is any advantage to be gained from the parade of human foolishness and tragedy that makes up almost all of the cases in our courts. This bill is unworthy of this parliament and for us as parliamentarians, and the Democrats will not support it.

The Hon. P. HOLLOWAY (Minister for Police): I thank honourable members for their indication of support for this bill. The Hon. Mr Lawson has indicated that the opposition will support the passage of this legislation notwithstanding some serious misgivings it has about elements of the legislation. I have searched through the honourable member's contribution, and I must say that, apart from criticising the content of the second reading explanation, the serious misgivings do not appear to amount to very much at all. Certainly, there is no suggestion that the opposition will be moving amendments to the bill.

The Hon. R.I. Lucas: We are waiting to see your amendments.

The Hon. P. HOLLOWAY: Sure. The second reading explanation makes clear that the amendments contained in this bill implement election commitments that the government gave to the people of South Australia before the last election. This is a government that keeps its promises. That is why the government has brought this legislation before the parliament. The Hon. Mr Lawson questioned whether the amendment to section 10 to insert a new primary policy of the criminal law, that the criminal law is to protect the safety of the community, will have any effect on an individual sentence. This new primary policy is to be found in new section 10(1b)—

Members interjecting:

The ACTING PRESIDENT: Order! Conversation across the chamber is out of order.

The Hon. P. HOLLOWAY: New section 10(1b) must be read in conjunction with two other amendments in the bill. The first is new section 10(1)(eaa), which provides that, when determining a sentence, the sentencing court should have regard to the need to give proper effect to the new primary policy. Secondly, and more importantly, is the amendment to Section 11 of the act. Section 11 sets out the circumstances in which a sentence of imprisonment may be imposed. Currently subsection (1) provides:

> A sentence of imprisonment may only be imposed if:
> (a) in the opinion of the court the defendant has shown a tendency towards violence, is likely to commit a serious offences if allowed to go at large, has previously been convicted of an offence punishable by imprisonment, or if any other sentence would be inappropriate having regard to the gravity or circumstances of the offences; or
> (b) if a sentence of imprisonment is necessary to give proper effect to the primary policy stated in section 10 (2) [being the existing primary policy relating to home invasion].

Clause 6 of the bill amends paragraph (b) so that a court may impose a sentence of imprisonment if that is necessary to give proper effect to the policies of the criminal law in section 10, including the new primary policy of protecting the public.

The Hon. Mr Lawson provided some detailed commentary on the meaning of 'exceptional circumstances', which is used in the amendments to section 32 to introduce minimum non parole periods. He indicated that he did not think that this test would present any problems. Later in his contribution, Mr Lawson put on the record the Law Society's views about the bill. One of the areas about which the Law Society has raised concerns is the use of the exceptional circumstances test in the context of the new mandatory minimum non parole periods. While I will address the Law Society's concerns in a moment, I should at this point say that the government is seeking advice on the Law Society's comments on the exceptional circumstances test and may move amendments to clause 8 of the bill during the committee stage if this advice suggests that amendments are necessary or appropriate.

The Hon. Mr Lawson then turned to the amendments in clause 9 of the bill. These amendments insert a new division 3 into part 3 of the act. Mr Lawson suggested that these new provisions will apply to persons convicted of serious sexual offences. This is not the case. These new provisions empower the Attorney-General to apply to the Full Court for an order to negate the non parole period of a person convicted of and sentenced for the crime of murder in prescribed circumstances.

The Hon. Mr Lawson raised some concerns about the Attorney-General's power under proposed section 33(2) to determine whether an offence has been committed in prescribed circumstances. He suggests that the attorney-general of the day may, because of political or some other pressure, make a determination in the absence of proper

evidence. The government does not share the opposition's concerns.

This is simply a threshold test to ensure that applications under new section 33A are brought only where warranted. Whether or not a particular offender is declared to be a dangerous offender is a matter for the Full Court. A number of safeguards are built into the legislation: the offender who is the subject of the application must be given notice of the proceedings; the offender has the right to appear and, if he so wishes, be represented by counsel at the hearing; he must be afforded a reasonable opportunity to call and give evidence, to examine or cross-examine witnesses, and to make submissions. Ultimately, the Full Court, not the Attorney-General, makes the determination and may only do so if satisfied, on the balance of probabilities, that the release from prison of the offender would involve a serious danger to the community or a member of the community. Even where the Full Court makes a declaration, the offender retains the right, subject to a 12-month time limit, to apply to the Supreme Court for the fixing of a new nonparole period under section 32.

The Hon. Mr Lawson also made some comments about the application of these provisions to offenders convicted and sentenced before their commencement. In particular, he took issue with the suggestion of the Law Society that the bill creates a retrospective offence. The government agrees entirely with Mr Lawson's explanation, and we thank him for it. The Hon. Mr Lawson has placed on the record the views of the Law Society on the bill. The Law Society questioned why the power to bring an application under new section 23(2b) resides with the Attorney-General and not the DPP. New section 23(2b) is drafted so as to be consistent with the primary provision, section 23(2a), which empowers the Attorney-General, not the DPP, to bring an application to have an offender who is in prison dealt with under section 23.

The Law Society has questioned the 12-month time frame for bringing a further application under new section 23(2b). It suggests that this is too short and should be extended to three years. The Law Society appears to misunderstand the effect of new section 23(2b). This provision does not authorise the Attorney-General to bring an application every 12 months. On the contrary, it provides that, where an application has previously been made under subsection (2a), the Attorney-General may not make another application more than 12 months before the person is eligible for release on parole.

The Law Society suggests that the power to bring an application under new section 23(2b) should be subject to the proviso that there be a substantial change in the offender's circumstances before an application can be made. This suggestion also appears to be based on the same misunderstanding that the Attorney-General can bring an application every 12 months; he cannot. In any event, where the court declines an application by the Attorney-General under section 23(2a), a further application under section 23(2b) would not be made unless circumstances had changed. Given the requirements of section 23(3), (4) and (5), there would be little, if any, point in bringing a further application if circumstances had not changed. It is the Supreme Court that decides whether the requirements of subsection (5) have been satisfied.

The Law Society argues that a sentencing court's ability to impose a nonparole period that is less than the prescribed minimum, based as it is on an exceptional circumstances test, is unduly restrictive. The Law Society recommends that the exceptional circumstances test be replaced with an unfettered discretion. Although the government has no plans to provide a sentencing court with an unfettered discretion to ignore the new mandatory minimum nonparole periods, it is taking advice on the technical aspects of the concerns raised by the Law Society. If that advice is that amendments are necessary or appropriate, the government will consider moving amendments during the committee stage.

The Law Society argues that the offences of conspiracy or being an accessory to murder or a serious offence against the person should not be subject to the new minimum mandatory nonparole periods. Amendments to section 32(10) provide that the offences of conspiracy to murder, or to commit a serious offence against the person, or an offence of aiding, abetting, counselling or procuring the commission of such an offence are included, respectively, in the definition of 'murder' or 'serious offence against the person'. This means the mandatory minimum nonparole periods will apply to sentences for these offences. The Law Society claims that to do so, particularly in the case of murder, is disproportionate. The government does not agree. These offences are included because they attract the same maximum penalty as the primary offence. In the case of the offence of conspiracy, the maximum penalty for conspiracy for murder (life imprisonment) is set down in section 12 of the Criminal Law Consolidation Act.

The offence of conspiracy to commit a serious offence against the person will be governed by the common law. The authorities make clear that the penalty for the common law offence of conspiracy can, in appropriate circumstances, be the maximum penalty imposed for the substantive offence. The Law Society argues that the new mandatory minimum nonparole periods fail to recognise the principle of proportionality in sentencing, that is, that a sentence should in general be 'proportionate' to the gravity of the offence.

The government is considering a detailed submission from the Law Society on the principle of proportionality and is taking advice from the DPP, the Solicitor General and the Attorney-General's Department on the Law Society's concerns. If that advice is that amendments are appropriate, the government will consider moving amendments during committee. As with its concerns with the amendment to section 23, the Law Society has raised concerns about the fact that it is the Attorney-General rather than the DPP who is responsible for making an application under the new dangerous offenders provisions. The Hon. Robert Lawson raised similar concerns.

I will make some points. First, these provisions, like those that authorise sentences of indeterminate duration for offenders unable or unwilling to control their sexual instincts, are modelled on the Dangerous Prisoners (Sexual Offenders) Act 2003 of Queensland. This legislation, the constitutional validity of which has been upheld by the High Court, provides that it is the Attorney-General rather than the DPP who brings an application.

Secondly, applications under section 33A cannot be made more than 12 months before the offender is eligible to apply for release on parole. This means that applications will be brought and heard many years after the offender was sentenced and even where there has been an appeal many years after the DPP's practical involvement in the file has ended. The government is of the view that, while the DPP should be able to appear and be heard on the application, which is provided for in new subsection 33A(6), the primary responsibility for seeking an order under section 33A should reside with the Attorney-General.

The Law Society notes that new subsection 33B preserves the powers and authorities conferred on or invested in the Governor in relation to parole and suggests that this is somehow a double standard. The government does not agree. It is the government's position that the powers and authorities preserved by new section 33B, principally those found in the Correctional Services Act that empower the Governor to accept or reject a recommendation of the Parole Board that an offender serving a life sentence be released on parole, are an appropriate and necessary safeguard.

The Law Society has also raised concerns about the traditional provisions that apply—the amendments in part 2 of the bill—to offenders sentenced before the commencement of the amendments. The Hon. Mr Lawson dealt with these concerns more than adequately in his second reading contribution. I thank all members for their contributions.

Bill read a second time.

MOTOR VEHICLES (EXPIATION OF OFFENCES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 14 March. Page 1657.)

The Hon. D.G.E. HOOD: I will be brief. I will share quickly the impetus for this bill. Several months ago I introduced a bill to change the law with respect to people growing cannabis, the effect of which would have been to take away the expiation system from people growing cannabis (I am only talking about people growing it and not users) and would have made them front the court system. They would not have gone to gaol but could have been diverted to appropriate programs. For repeat offenders growing multiple plants, a more severe penalty would have been appropriate. The intention of the bill was to take away the expiation fee from people growing single plants and have them front the courts. The opposition supported it, and I thank them for that. It went through the house, but the government's argument against the bill was that it would further congest the court system.

I did not agree with that view at the time, but I did not have any firm data to support it. I looked at the court system and looked at what cases took up most of the courts' time. As a result of that investigation and looking at what cases dominated the time of the Magistrates Court sprang this bill. When looking at what took up the time of the Magistrates Court, I discovered in some cases on individual days up to 50 per cent of the cases were the offence of driving unregistered and uninsured. In consultation with my colleague the Hon. Andrew Evans, we decided to present a bill to the council which would remove a significant burden of the caseload before the Magistrates Court at present in order to free up the courts to deal with matters such as drug dealers and the like. That is what this bill does.

This bill takes away the most significant offence that appears before the Magistrates Court, namely, driving unregistered and uninsured. I quoted a figure of up to 50 per cent. In fact, it was 56 per cent on one particular day in the Elizabeth Magistrates Court in early September. That is not the average, though. The total number of average cases we examined was 16 per cent of the caseload of the Magistrates Court across four magistrates courts in Adelaide over a six-week period. So, for a period of six weeks, 16.5 per cent of the total cases in the Magistrates Court would disappear if this bill passed. Imagine the opportunity for the courts to deal with the real criminals.

This bill is essentially for people who have simply forgotten to pay their registration for a period not exceeding 30 days. Someone might be overseas or interstate on holidays or business. The registration renewal might arrive in the post, they do not pay it and, as a result, at present they get a court summons. That is what is clogging up the courts. How bizarre! We have people clogging up the Magistrates Court system because they forget to pay their car registration, but we do not want to send people who are growing drugs to our court system. It is totally inappropriate. I urge members to support the bill.

In my second reading speech I noted that Queensland has this exact system that I am proposing; it is exactly the same. It is no different whatsoever—and the numbers are amazing. Over the past 13 months some 57 321 expiation notices for this offence have been issued in Queensland. That is 57 321 cases with which the courts do not have to deal in Queensland but which we deal with here in South Australia. What an incredible waste of resources. What a blight on the priorities we set for our courts in this state. This bill will fix that once and for all. On average, 16 per cent of the cases dealt with in the Magistrates Court will disappear if this bill passes. I urge members to consider that in their vote.

Also, providence has dropped something in my lap in the past few days—and I would like to refer to it. It backs up Family First's argument for this bill. It was reported in *The Advertiser* this week that magistrate Iuliano said that the Magistrates Court is overwhelmed with cases and that no-one is listening to their concerns. Well, Family First is listening. This bill will go a long way towards fixing those concerns. The courts should deal with criminals, not people who forget to pay their car registration. Finally, I acknowledge an amendment which has been put forward by the opposition and which limits the period of expiation to 30 days.

If, hypothetically, someone forgets to pay their registration for 29 days, then they would be able to deal with this matter by expiation. However, if it goes over 30 days, then they would have to front the court system, which Family First thinks is a sensible amendment. The member for Unley has been kind enough to allow me to move that amendment, and I thank him for that. There is an amendment to the bill which limits the period of possible expiation for this offence to a maximum of 30 days, and anyone exceeding that 30 day period of being unregistered or uninsured would then have to front the court system. By our estimation, that creates a slightly negative impact of this bill, but it would still mean that about 12 per cent of cases before the Magistrates Court would simply disappear if this bill passes. I commend the bill to the council.

Bill read a second time.

In committee.

Clause 1.

The Hon. R.D. LAWSON: I commend the honourable member for this measure. Some of the statistics that he gave in his second reading explanation are very interesting. I add to the record the fact that the Police Commissioner's report shows that there is a very significant number of these offences. The honourable member's methodology was to look at the list in the Magistrates Court where the principal offence is always listed with the name of the offender. I have done the same exercise and I urge other members to do the same because it clearly highlights the very large number of these

cases. Whether or not magistrates actually spend much time on them is quite another issue.

The Police Commissioner's report shows that motor vehicle registration offences in 2001 were 24 800 (these are rough figures); 2002, 26 000; 2 003, 27 000; 2004, 29 000; and 2005 (the last year for which figures are available), 31 286, showing an increase over those five years of some 25 per cent. It is also interesting that, although it is rather difficult to obtain the figures, the police issued expiation notices in 359 279 cases, according to the Police Commissioner's report for 2005-06. Members can see that about 360 000 expiation notices are issued. Clearly, they are being issued like confetti. The honourable member is suggesting that there is no great social harm being done in increasing the number of expiation notices but reducing the number of offences which presently go through the court.

The Hon. R.P. WORTLEY: I indicate that the government will oppose this bill. The bill proposes to make the offence of driving or leaving standing an unregistered or uninsured vehicle, expiable at $105 and $210, or $80 for a light vehicle trailer, respectively. The Hon. Dennis Hood reports that these offences appear frequently in the Magistrates Court's list—one in every six offences—and argues that, if the offence was expiable, the court waiting list would lessen.

Whilst sympathetic to the basis of the Hon. Mr Hood's bill, the government is not prepared to support the bill as it does not adequately deal with all the associated issues. The government has been aware of this problem for some time and the Department of Transport, Energy and Infrastructure has been working with the Motor Vehicles Commission, South Australia Police, the Attorney-General's Department and the Courts Administration Authority to address the issue in a comprehensive way.

A departmental submission, for the government's consideration, is due in March. This will result in a bill to be considered by parliament early in the second half of the year. The total fee to register a vehicle includes a registration charge, a premium for the compulsory third party bodily injury insurance, stamp duty on the issue of the insurance cover, an emergency services levy and an administration fee. Each unregistered/uninsured vehicle driven or left standing on a road therefore results in a loss of revenue to the highways fund, the third party property fund, the emergency services fund and the hospital fund.

If a person is detected driving an unregistered or uninsured vehicle, the driver of the vehicle is summonsed and the matter is heard in the Magistrates Court. Similarly, if an unregistered or uninsured vehicle is left standing on a road, the registered owner is summonsed. While it is not possible to establish the exact number of vehicles that are on the road without registration and insurance cover, the number of offences detected and prosecuted is increasing. In 2000-01 there were 14 517 charges before the court. The number of cases before the court has increased to approximately 19 300 in 2005-06.

The maximum penalty for driving an unregistered vehicle is $750, or twice the registration fee for 12 months, whichever is the higher. Driving uninsured attracts a maximum penalty of up to $2 500 and disqualification from holding or obtaining a driver's licence for up to 12 months. The offence of driving uninsured attracts a higher penalty, as it constitutes a derogation of fiscal responsibility for personal injury in the event of an accident. It also ultimately results in higher premiums being levied on those who register and insure their vehicle.

The average fine imposed by the court has tended to be low in relation to the maximum penalty. The average penalty imposed for driving an unregistered vehicle is $239. If a vehicle is both unregistered and uninsured the average penalty imposed by the court across both offences is $300. In addition, an average driver's licence disqualification of two days, for the offence of driving an uninsured vehicle, is usually imposed. The court enables the offender to choose which two days their licence will be disqualified. Based on increasing numbers of cases before the court, the government has recently announced it will be introducing vehicle clamping or impounding for a number of offences, including repeat unregistered/uninsured offences.

Clearly, the government has acted on the issue and further action resulting from the department's submission will be announced soon. The government supports the principle of making the offences expiable. However, a number of issues have not been considered in the Hon. Mr Hood's bill, and will be included in the government's response. These include: making the unregistered/uninsured offences expiable, with an expiation fee that is sufficiently high both to act as a deterrent and to recover some of the revenue lost by failure to register and insure a vehicle.

The Hood bill proposes to make the expiation for driving unregistered $105 and the expiation for an uninsured offence $210. The government is looking at both higher expiation fees and higher court-imposed penalties to ensure that there is a disincentive for driving unregistered or uninsured. Fees currently avoided for a full 12-month period are in the range of $400 to $2 000 for a light vehicle, and a range of $3 000 to $8 000 for a heavy vehicle. Expiation fees assist the court's set penalty levels, insofar as the court does not usually set a penalty lower than the expiation fee for the offence. The low level of expiation fees proposed in the bill may have the effect of reducing the already low level of penalties imposed.

The Statutes Amendment (Road Transport Compliance and Enforcement) Act, due to be proclaimed in April, will increase the maximum expiation fee that can be imposed for offences under the Motor Vehicles Act and regulations to $750. The department's submission is looking at expiation fees of $250 for driving unregistered and $500 for driving uninsured. This level would counteract the perceived financial benefit for not paying the registration and insurance fees and reflect the seriousness of these offences. The proposed court-imposed penalties are $2 500 for driving unregistered and $5 000 for driving uninsured. This will give the court the opportunity to impose penalties that equate to the amount of registration and insurance avoided.

Also not included in the Hon. Dennis Hood's bill is the increasing levels of detection and perceived risk of detection by making the offences detectable by camera, in addition to on-road detection by police. Also not included is reviewing legal requirements regarding selling and purchasing motor vehicles and associated notification to the Registrar of Motor Vehicles to ensure that the Registrar of Motor Vehicles is as accurate as possible; and carrying out an extensive public education campaign to make people aware of increased penalties and the need to ensure the vehicle they drive is registered. In recognition of the fact that some families find it difficult to pay the full registration amount, there is already provision for six monthly or quarterly payments, which assists in spreading out payments. South Australia is one of only two jurisdictions offering this latter option.

While the assumption in the bill that making these offences expiable would remove matters from the court seems

logical, it is unlikely that the bill will reduce court waiting times. The department has been advised by the Courts Administration Authority that unregistered and uninsured offences are not usually heard alone but generally form part of a larger group of offences being heard together. The Courts Administration Authority has confirmed that there would be no savings as a result of making the offences expiable and that any reduction in court work would be absorbed by increased work loads in the Fines Enforcement Unit, caused by the need to follow up on fines payment defaulting.

The number of people who drive unregistered and uninsured vehicles is increasing. This results in higher premiums for people who do register, and loss of revenue to the government. The government's response will increase the penalties and the risk of detection. This will ultimately reduce the numbers of people who fail to register because they think that they will not get caught and if they do it will not cost as much as the registration would have.

The Hon. A.M. BRESSINGTON: I rise to give my support to this bill also, and would like to make a couple of points. I remind members in this place that in the year 2000 Mr Mal Hyde, the Commissioner of Police, made the statement that we need to review the expiation system in South Australia for cannabis, and he believed it was contributing to a cottage industry. There was also an article in Sunday's newspaper about a gentleman from America, and I cannot recall his name, who was part of the drug enforcement agency in America and was under cover for quite a long time. He said that the fatal flaw in Australia with our cannabis laws is, in fact, the expiation system in that it creates a cottage industry that proliferates the growth and distribution of cannabis and therefore the use of cannabis. His words of wisdom were that we should revise our laws on the expiation of cannabis as soon as possible.

I also mention that Justice Athol Moffitt in his book *The Drug Precipice*, which he wrote after the 1975 royal commission into organised crime, said that one of the greatest mistakes that we could make in this country (and this was before it happened) was to decriminalise, or appear to be decriminalising, drugs such as cannabis and heroin because it would open up the market for organised crime and make it almost impossible for us to detect the distribution points of that drug. We have seen that happen. We have seen cannabis grown in great quantities throughout the countryside. We have also seen methamphetamine drugs become so readily available that some are produced in the boots of cars and distributed from there. So, we have a number of points.

The Hon. Nick Xenophon: Unregistered cars.

The Hon. A.M. BRESSINGTON: Unregistered cars, too, yes, as my colleague the Hon. Nick Xenophon says. There is enough evidence to show that we need to be rethinking this and treating drug offences in the manner which they deserve. I actually know of people who have driven an unregistered car and been tailed by police three or four times. They have not ended up with a charge nor have they had to appear in court for it either: they were actually given leniency by the police, who gave them time to register their car. So, it works both ways. However, as the Hon. Dennis Hood said, there are a lot of people ending up in our courts for a simple offence that some may view as part of other criminal behaviour. I can remember being a single mum of four kids and having to wait until after the due date of my registration before I could actually afford to register my car, and it was not a sign that I was participating in other criminal behaviour: it was just a matter of affordability. I offer my support to the Hon. Dennis Hood and I urge members in this council to also lend their support. I look forward to the progression of this bill.

The Hon. NICK XENOPHON: Very briefly, I indicate that I have already set out my reservations during the second reading stage of this bill. The amendment proposed by the opposition ameliorates those concerns and, at the end of the day, the Hon. Dennis Hood makes a very good point in that, if the government is saying that we cannot deal with cannabis and drug offences because the court system is overloaded, I would rather that they deal with those cases than these cases. It also begs other questions about our justice system in terms of using justices of the peace more often for these sorts of minor matters; so, it is a question of priorities. I would rather we deal with the more serious offences that the Hons Dennis Hood and Ann Bressington have dealt with and all their social implications. I still think it is important to send a message about the need to have registered and insured vehicles because of the importance of our compulsory third party scheme. Given the priorities and the amendment proposed by the opposition, I will support this bill until the third reading stage.

Clause passed.

Clauses 2 and 3 passed.

Clause 4.

The Hon. D.G.E. HOOD: I move:

Page 2, line 16—
After 'fee:' insert:
if, at the time of the offence, the vehicle was uninsured for a period not exceeding 30 days—

This is a very simple amendment which, as I alluded to in my summing up a moment ago, was the opposition's concept. Essentially, it is to limit the period of expiation to a maximum of 30 days. Again, I acknowledge the member for Unley for his allowing me to present the amendment.

The Hon. R.D. LAWSON: I appreciate that this particular question is not specifically related to the amendment which the Liberal members will be supporting, but how does the mover envisage repeat offenders will be treated under this system? I mentioned that about 300 000 expiation notices are issued a year. As I understand it, in respect of a lot of those, no conviction is recorded. How does he propose dealing with repeat offenders? Does he envisage that someone who every year fails to register their vehicle for three months or so would be treated? Would a first offender be treated to the same expiation fee as an offender who has committed 35 breaches?

The Hon. D.G.E. HOOD: The answer to that is that the expiation fee that would apply would serve as a disincentive for repeat offenders. If they continue to neglect registering their car on time every year, they are going to be hit not only with a registration fee but with an expiation fee which, of course, serves as a disincentive in itself. The other issue is that, if it goes beyond the period of 30 days, then they would have to go into the court system and the court system would deal with repeat offenders appropriately.

The Hon. R.D. LAWSON: I make that point only because I have every sympathy for the honourable member and others who are concerned about the expiation system for so-called simple cannabis offences. One of my principal objections to the expiation system in relation to cannabis offences is that you get charged the same modest, almost derisory fee, whether it is the first or the 100th offence. I think that is actually one of the weaknesses of the expiation system. Of course, it can be overcome by the loss of points system, as we do with speeding, red-light camera offences

and the like. I make that comment in passing. Obviously, this issue is going to return to the parliament if the government adopts the dog in the manger approach it has taken in this council in another place.

The Hon. D.G.E. HOOD: Referring to the comments of the Hon. Mr Lawson, that is exactly why the 30-day limit for the expiation fee has been employed in this bill.

The Hon. R.P. WORTLEY: We do not oppose the amendment or any individual clauses. For the reasons I have already given, we oppose the whole bill, but we will not seek to divide.

Amendment carried.

The Hon. D.G.E. HOOD: I move:

Page 2, line 21—
After 'fee:' insert:
if, at the time of the offence, the vehicle was uninsured for a period not exceeding 30 days—

This is exactly the same amendment, making sure that it applies to both provisions within the bill.

Amendment carried; clause as amended passed.

Title passed.

Bill reported with amendments; committee's report adopted.

Bill read a third time and passed.

ROAD TRAFFIC (PREVIOUS CONVICTIONS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 1 November. Page 843.)

The Hon. CARMEL ZOLLO (Minister for Road Safety): I do not ordinarily represent the Attorney-General in this chamber but, given the strong interest I have in this legislation as the road safety minister, I am taking the opportunity to respond on the government's behalf. The government supports the second reading of this bill. Excessive speed and drink driving are serious offences. The behaviour they target poses severe risks to the drivers themselves, their passengers and other vehicle and road users. Crashes cause anguish to the individuals affected and their families and impose costs on the community of medical care and rehabilitation.

Holding a driver's licence is a privilege not a right, and drivers must take responsibility for their driving behaviour or face the consequences. Although the bill is supported in principle, there are some matters the government intends to raise in committee. The government thinks that the removal of any time limit on previous convictions is unduly harsh and ignores the person's efforts to reform their behaviour and remain conviction free for a considerable time. The government is prepared to support an extension of the period from five years. As to the period that should be inserted (whether it should be 10, 15 or 20 years or whether there should be some distinction in the time period depending on the types of offences), we look forward to working these matters through in committee.

The aim should be to ensure that a prior offence of a reasonable proximity will be able to be taken into account but to still allow recognition of an offender's good driving record over a lengthy period. Members may be interested to know that a 10-year time limit would be consistent with proposals currently under consideration by the Standing Committee of Attorneys-General for nationally consistent spent conviction legislation. Spent conviction legislation does not generally apply to serious offences as much as sexual offences or offences of violence, nor to the most serious driving offences.

However, the legislation which is currently in force in all jurisdictions—except South Australia and Victoria—provides that convictions for minor offences may, subject to appropriate exceptions, be removed from an offender's criminal record after a period of non-offending, most commonly 10 years. It should be noted that since Mr Roediger committed the offences in question, the Statutes Amendment (Vehicle and Vessel Offences) Act 2005 has increased the penalties for reckless and dangerous driving from a fine of between $700 and $1 200 for a first offence and a fine of between $800 and $1 200 or three months imprisonment for a subsequent offence to two years imprisonment for any offence.

In addition, the penalty for aggravated careless driving, including where the offence caused the death of or serious harm to a person, was increased to a maximum penalty of 12 months imprisonment and licence disqualification for a period of not less than six months. The penalty for causing harm or death by dangerous driving in the Criminal Law Consolidation Act was also increased and new aggravated offences were introduced. These revised offences and penalties were not applicable to the Roediger case, but they would apply to anyone who committed such offences after 30 July 2006.

I foreshadow that in committee the government will discuss in detail any change to the period for prior convictions in relation to first offences for category 1 BAC, which is expiable. Being expiable is an indication that an offence is not—considering offences across all legislation—as serious as an offence that is not expiable. Given a body of work currently being undertaken, this government will oppose the amendment to section 47J, which deals with recurrent offenders. The amendment extends the period within which a previous offence will be considered as making a person a recurrent offender from three to five years, and will have the effect of increasing the number of drivers who are sent for drug and alcohol dependency assessments.

This will increase the workload of Drug and Alcohol Services South Australia, which undertakes these assessments, and increase the waiting time for an assessment. An inter-agency group of representatives from the Attorney-General's Department, the Department for Transport, Energy and Infrastructure and Drug and Alcohol Services South Australia has examined the problem of assessment waiting times with a view to proposing amendments to the Road Traffic Act for the government's consideration. The working group is expected to report to the government shortly.

The government will also take the opportunity to propose an amendment to section 46 of the Road Traffic Act to insert 'reckless and dangerous driving'. Currently, only another reckless and dangerous driving offence can be taken into account in assessing whether the offence is a first or a subsequent offence. The government's amendment would add section 19A of the Criminal Law Consolidation Act, which provides for 'causing death or harm by dangerous use of a vehicle or vessel', as a previous offence for the purposes of this section, as well as reckless and dangerous driving. This will ensure that the more serious related offence also counts in assessing whether an offence is a subsequent offence and, therefore, deserving of a heavier penalty.

The government supports the second reading of this bill, and is prepared to support an extension of the period. We look forward to the committee stage, where the matters that

have been raised can be further considered by honourable members.

The Hon. M. PARNELL: The Greens support the second reading of this bill. I was heartened to hear the minister's comment that we are looking at a national approach to previous convictions and the period of expiry. My thought was that a 10-year period would be appropriate. I am glad that we will have time before parliament sits again to consider that matter. I just wanted to place on the record my support for the notion of improving the status quo and not having these convictions last for only five years.

The Hon. D.G.E. HOOD: This is a sensible bill, and it is very difficult not to support it. Family First believes that it is entirely appropriate to change the law in the way that is being proposed by the Hon. Mr Xenophon, and we fully support it.

The Hon. NICK XENOPHON: I thank honourable members for their contribution to this bill. I am particularly heartened by the comments of the minister, and I look forward to the committee stage. Reform is overdue with respect to this area of the law. The awful case with its inadequate penalty based on current laws was the catalyst for this measure and indicated a need for reform. I look forward to consideration of the amendments during the committee stage of this bill. I also look forward to the law at last being changed in this regard. I believe it is long overdue.

Bill read a second time.

SUMMARY PROCEDURE (PAEDOPHILE RESTRAINING ORDERS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 21 February. Page 1493.)

The Hon. NICK XENOPHON: I support the second reading of this bill, and I commend the Hon. Mr Hood for introducing it. The honourable member has already set out quite comprehensively what this bill proposes to do. I support wholeheartedly what it is seeking to do. If it assists in reducing the scourge of paedophilia and the long-term impact that it has on its victims, then I will do my bit to ensure that this bill is passed as expeditiously as possible. I look forward to the committee stage of this bill.

The Hon. B.V. FINNIGAN: I am sure all honourable members are united in our desire to protect children from predators wherever we can. This bill proposes some measures in relation to convicted paedophiles loitering around children, and regulating their use of the internet. Regulating or controlling people's use of the internet is notoriously difficult and I think there are a few questions about how that could be achieved through this bill, particularly the monitoring of their use with an ISP. However, the government is considering its position further and, at this stage, we are not indicating support for or opposition to the bill. However, we will support the second reading of the bill on the basis that we want the bill to progress to this stage. Over the break we will consider our position and communicate that to the chamber further in the future.

The Hon. D.G.E. HOOD: In summing up, I would like to thank honourable members for their contributions and for their indications of support, which have been widespread. I thank honourable members for that. For those who have not contributed, I urge them to consider this worthwhile legislation. It is very similar to existing legislation in the United Kingdom and the United States. Whilst there are difficulties with new initiatives such as this, there are laws to this effect in the US and the UK that are acting right now to protect children and stop paedophiles from damaging children's lives. The days when paedophiles hung around playgrounds are not gone, but certainly it is not the main sphere of activity any longer. The main sphere of activity is online and it is time legislation caught up with that very real threat to our children's lives.

Before I go into the substance of the bill I would like to update honourable members on developments in this area since I introduced the bill in September last year. In December 2006 New York Democrat Senator Charles E. Schumer and Arizona Republican Senator John McCain—and I note the bipartisanship—said that they would introduce legislation to protect users of social networking sites like News Corp's MySpace from registered sex offenders (presumably, they meant registered in the USA). The legislation would enable social networking sites like MySpace to crosscheck new members against the database of registrable sex offenders. Interestingly, submitting a false email address would be an imprisonable offence. I am not suggesting that, but it shows the measures they go to in some places.

I recall earlier this year a man was convicted of preying on children online in Queensland, and the evidence shows he resumed that behaviour the day after being sentenced and released into the community for a previous child sexual offence. I think that goes to show that it is to the benefit of the offender to have this kind of disincentive to use the internet in place—so, not just the victim, but the offender as well.

It is not setting them up to fail. If people are not able to stay away from the internet, then arguably they are not ready for release into the community, or they should go into some form of institutional care until they can restrain themselves. At the start of this month, Reuter's reported on an innovative plan in the US state of Ohio, again a bipartisan Democrat/Republican measure, to force convicted sex offenders to have a fluorescent green numberplate on their vehicle. The proponent state politicians there think that such a measure is a logical next step from other US states' yellow, pink or red numberplates for convicted drunk drivers. Fluorescent green numberplates for convicted sex offenders goes a little too far in my view, but I speak of it simply to indicate to members the extremes to which some legislators from both sides of politics are willing to go, and I hope it demonstrates that this Family First initiative is very moderate and very practical by comparison.

This bill does not directly deal with such matters, but the US activity demonstrates the broadly accepted view that governments need to legislate to provide protection to children's activity on line, and we certainly endorse that. The opposition has indicated that it has some questions about this bill, and I will address them briefly now. First, I was asked about the scope of premises for the random inspections. I might add here that I did seek a contribution from the minister and the Commissioner of Police on this inspection clause, but at this stage I have not had that reply. I am sure that it will come. The scope of premises is predominantly premises occupied in the form of a residence, be it temporary or permanent, so a house, boarding house or even a transport-

able home would be within the scope of the section. However, a place that is, say, a public place frequented by an individual is not within the scope of this legislation.

SA Police would require a reasonable suspicion as to the activities of a person to seize their computer machinery. That is the key issue, the seizure of a computer and peripheral devices involved, and we do not want SA Police taking the computers from an internet cafe or from a family member's home or the like. I might add here that this bill is what Family First considers to be a first step. It is our sincere hope that, in utilising this great tool for monitoring convicted paedophile behaviour, SA Police will identify software and even hardware tools that they can use to better police this activity. For instance, if software was available that would alert SA Police when a convicted paedophile was on line and allow them to tag along or even simply keep a log of that paedophile's internet activity, we would seriously consider introducing enabling legislation to let South Australia Police use that tool. Such a tool, of course, would have to be free of the possibility of circumvention.

The second issue I want to address is the use of the term 'sexual offence against a child', as opposed to the defined term 'child sexual offences'. Parliamentary Counsel assures me, as we had thought, that this wording broadens rather than narrows the scope of this bill. To use the generic term 'sexual offence against a child' is clearly intended to capture any 'sexual offence against a child' rather more narrowly defined term in section 99AA of the Summary Procedures Act. Again, we have Parliamentary Counsel's assurance that this will capture more offences than those currently defined in the act. On the third issue raised by the opposition—and I thank it for its scrutiny of this bill—it is useful to read into *Hansard* section 19A(1) of the Criminal Law (Sentencing) Act as it presently stands. It provides:

> A court may, on finding a person guilty of an offence or on sentencing a person for an offence, exercise the powers of the Magistrates Court to issue against the defendant a restraining order under the Summary Procedure Act 1921 or a domestic violence restraining order under the Domestic Violence Act 1994 as if a complaint had been made under that act against the defendant in relation to the matters alleged in the proceedings for the offence.

The relevant part, of course, is the reference to the Summary Procedure Act. We had two forums in mind when we introduced this bill. One forum was the sentencing process, the other was a situation where a convicted paedophile was behaving suspiciously and SA Police deemed it necessary to impose a restraining order of this nature by court application. The first forum, the sentencing forum, is the only logical forum when the opposition's query arises about the need for an application. We were specific in our instructions to Parliamentary Counsel that we wanted a judge or magistrate to be able to make an order of this nature without an application from SA Police or the Director of Public Prosecutions. In other words, if the judicial officer thinks it is appropriate, he can impose such an order without application.

Of course, our hope is that SA Police or the DPP make sentencing submissions in favour of such an order where they consider there is merit in an order being made. Indeed, in the submissions of defence counsel, a convicted paedophile might offer to be subject to such an order in the hope of a avoiding an immediate term of imprisonment. Whether that is appropriate is up to the discretion of the judicial officer in the appropriate case. I repeat that very similar legislation is already enshrined in law in the UK and the US, and the legislation over there is protecting children right now. There is no reason why this bill cannot be enacted here, and I urge members to support the bill.

Bill read a second time.

VOLUNTARY EUTHANASIA

Adjourned debate on motion of Hon. S.M. Kanck:

That this council notes that the lack of legal voluntary euthanasia effectively forces some people to pre-emptive and covert suicide, often by violent or unreliable means.

(Continued from 30 August. Page 605.)

The Hon. M. PARNELL: It has been some time since anyone spoke to this motion—in fact, members will remember that it is only the mover who has spoken, and that was quite a memorable day in this place. The Hon. Sandra Kanck's speech attracted a great deal of ire and we spent a good proportion of the next day expunging her words from *Hansard*.

I was pleased to second the Hon. Sandra Kanck's motion when it was moved. I had no idea of what she was going to say but that is not the point; the point was that I entirely agreed with the motion, which was that we should note that the lack of voluntary euthanasia does effectively force some people to pre-emptive and covert suicide, often by violent or unreliable means. I will be careful with my words, because we do not have the opportunity to come back tomorrow and expunge my words from *Hansard*—

The Hon. Nick Xenophon: We didn't expunge it from *Hansard*—

The Hon. M. PARNELL: The electronic *Hansard*; I stand corrected.

The PRESIDENT: Order! It did not get expunged from *Hansard*.

The Hon. M. PARNELL: It was expunged from the electronic *Hansard*, and that was a very sorry day for democracy. Personally, I wish I had had a bit more experience in this place because I would then have had more to say than I was able to come up with on a couple of minutes' notice.

On the topic of voluntary euthanasia, one of the organisations I was pleased to join last year, in my capacity as a newly elected member of parliament, was the South Australian Voluntary Euthanasia Society, and I am encouraged, when I see the members of that society one Friday a month on the steps of Parliament House, that they are reminding us that the issue is not going away. I am also conscious that a large number of members of both this and the other place have been working on this issue for many years and that I am very much a Johnny-come-lately, but I am encouraged that there are enough members in both houses with a conviction to ensure that this issue does not disappear. I look forward to working with those members over the remainder of my time here to ensure that we do eventually get legislation in this place that provides for death with dignity.

I note that the Hon. Bob Such in another place has a voluntary euthanasia bill currently before that house—I guess he will be reintroducing it in the next session of parliament. I also understand that the Hon. Sandra Kanck has previously introduced a bill, and no doubt some of her former colleagues may have engaged in introducing bills as well. I would like to put on the record my preparedness to work with other members of this place to ensure that law reform is eventually achieved, and I would also like to take the opportunity to note that in the Senate this year the Greens introduced the

Australian Territories Rights of the Terminally Ill Bill 2007. Dr Bob Brown is leading the push to have that bill adopted as part of federal law.

The proposed commonwealth bill would write into legislation a patient's right to request assistance from a medical practitioner to terminate her or his life where levels of pain, suffering or distress are severe and unacceptable, removing the threat of legal proceedings against the person assisting her or him to die.

The underlying rationale of that bill is that people have the right to a humane death where they so choose, rather than being forced to suffer an undignified or prolonged death. I will not recount the large number of cases of suffering and misery that have led to the need for this sort of legislation; the Hon. Sandra Kanck did that most adequately in her original contribution to this motion. I simply put on the record that the Hon. Sandra Kanck is right to ask this council to note that the lack of voluntary euthanasia is causing distress and misery in our community. I congratulate her on bringing this motion to the council, and I look forward to working with her and other members to ensure that we address this deplorable situation and eventually have laws that provide for death with dignity in this state.

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

EDUCATION (RANDOM DRUG TESTING) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 14 March. Page 1663.)

The Hon. M. PARNELL: I begin by acknowledging that I understand the motivation of the Hon. Ann Bressington for this and a number of other bills and motions she has brought to this place. Like her, the Greens believe that the use of drugs is harmful, that it poses a serious risk to the mental and physical health of individuals and that it is costly to the community and society generally. The death of thousands annually as a result of drug abuse is a needless loss of life of tragic proportions, and the Greens are committed to reducing the damage done to individuals, their families and the wider community.

However, where we differ from the Hon. Ann Bressington's position is that the Greens believe that personal drug use is most appropriately dealt with primarily as a health and social issue, given the evidence that prohibition is ineffective and makes it much harder to control the spread of HIV and other blood-borne infections, such as hepatitis B and C. So, the Greens will be opposing this bill. I also note the strong and near universal negative reaction which came when the Hon. Ann Bressington first proposed this legislation, including from the Secondary Principals Association, the Independent Schools Association, the Australian Education Union, the South Australian Association of School Parents Clubs, and a range of family and drug support organisations.

Comprehensive, rigorous and respected research shows that there are many reasons why random student drug testing is not good policy. First, drug testing is expensive and takes away scarce dollars from other more effective programs that help keep young people out of trouble with drugs. Secondly, drug testing can be legally risky and potentially expose schools to costly litigation. Thirdly, drug testing can undermine the trust between students and teachers and between parents and children. As a parent of teenagers, I think that that relationship of trust is one of utmost importance. I find it abhorrent that I could say to my kids, having brought them up to try to live a good life, 'Yes, we trust you, but will you please blow into this bag,' or, 'Will you please lick this spoon.' I do not think that that is the way to build healthy relationships between parents and children.

We note the problem that drug testing can result in false positives, which can lead to the punishment of innocent students. Drug testing also potentially stigmatises a young person for the rest of their life. Drug testing is also emotionally intrusive; although the physical intrusion is certainly not the main element, the emotional intrusion is. Drug testing does not effectively identify the students who have serious problems with drugs, and they are the students into whom we want to put the most effort.

Drug testing can also lead to unintended consequences, such as students using other drugs like alcohol that are more dangerous but less detectable by drug tests; in fact, we could also add tobacco to that list that are killing, injuring and harming far more people than the illicit drugs sought to be controlled by the Hon. Anne Bressington's bill. Most damning for me is the evidence that has come from the United States that drug testing is not actually effective in deterring drug use amongst young people. The proponents assert the success of random student drug testing by citing a handful of reports from schools that anecdotally claim that drug testing reduced drug use. The only formal study to claim a reduction in drug use was based on a snapshot of two schools. That study was suspended by the federal government for lack of sound methodology.

The first large-scale national study on student drug testing found virtually no difference in rates of drug use between schools that have drug testing programs and those that do not. I refer to the University of Michigan drug testing study from 2003, and that result was further confirmed in a follow-up study. The researchers at the University of Michigan stated:

> So, does drug testing prevent or inhibit student drug use? Our data suggests that, as practised in recent years in American secondary schools, it does not. . . The two forms of drug testing that are generally assumed to be most promising for reducing student drug use—random testing applied to all students. . . and testing of athletes—did not produce encouraging results.

I do not think that there is evidence that the vast expense has been justified, certainly on that study in the United States.

The Greens believe that there are alternatives to drug testing that emphasise education, open discussion between adults and our young people, counselling and extracurricular activities at school. We want to see alternatives that build but not reduce the trust between young people and adults.

The Hon. A.M. BRESSINGTON: Mr President, I—

Members interjecting:

The PRESIDENT: Order! It is the second reading, and the Hon. Ms Bressington has the right to sum up. It is best that the Hon. Mr Xenophon sits in his seat and I run the orders of the council.

The Hon. A.M. BRESSINGTON: I am actually a bit caught by surprise. I thought that, given that the opposition opposed the bill, it was all over and done with, but obviously it is not.

The PRESIDENT: It is the second reading.

The Hon. A.M. BRESSINGTON: Okay. First of all I do not have anything prepared but I will cuff it for a couple of minutes—

The Hon. T.J. Stephens: Have a spray.

The Hon. A.M. BRESSINGTON: Oh well, I will have a spray. I take to task the objections that the Hon. Mark Parnell has just put forward, as they are based on really flimsy research. The research that was presented from Indiana was dismissed by Dr David Caldicott—

An honourable member interjecting:

The Hon. A.M. BRESSINGTON: Do you mind? It was dismissed by Dr David Caldicott merely because it came from the Bible belt of America. It was in Indiana; 57 schools were tested. It was overseen by Professor Ball of Robe University, who is a professor of education. Even that particular qualification was not good enough for good Dr David Caldicott. No; it was because it came from the bible belt of America that those 57 studies were dismissed without any consideration at all. That is not to mention the schools in Australia where I actually went with my research assistant. I spent two days in Melbourne where there are two schools that have been doing drug testing since 1999—

An honourable member interjecting:

The Hon. A.M. BRESSINGTON: Is anybody interested in this? Obviously not. Both schools stated that they had reduced the level of drug use amongst students by between 80 and 86 per cent in the period 1999 to 2006-07 and that they had actually improved the relationship between staff and students, staff and parents, and students and students. There was an understanding in the schools that drug use was unacceptable and that the behaviour that derives from problematic drug use in schools was unacceptable because it prevented other students from learning in the classroom.

So, all these supposed arguments against drug testing were based on one study, I think, the Michigan study. The National Institute of Drug Abuse stated categorically that the Michigan study should be treated with great caution because it was flawed in the way it was carried out and the methodology was absolutely inaccurate and flawed. However, that seems to be what the government, the Greens and the Democrats base their assumptions on, that is, one flawed piece of research that was not even completed. The Michigan study was not even completed and the data was not analysed accurately.

There are schools in Australia that have done this testing that have had positive results. The testing has not been intrusive. When we talk about the expense of drug tests, $55 per student for a skin test can hardly be considered to be too expensive. It would cost $100 per student per year. This particular test, which is carried out by Med Vet, is said to be 10 times more accurate than mouth swab and is less than an eighth of the cost. I wonder how much it is actually worth to the government, the opposition or to the Greens and Democrats when $100 a year per student is just too much to pay to prevent the disastrous effects of problematic drug use amongst our children.

The Hon. Mark Parnell said that he would hate to have to go to his children and ask them to blow in a bag or lick a spoon or whatever to show that they were not using drugs. I have to say that, if I was suspicious that my child was using drugs because their grades were slipping and their behaviour had become so disruptive the school was asking them not to attend, I would rather take the risk of supposedly breaking their trust and asking them to test for drugs so that I at least knew whether I was dealing with drug-affected behaviour or normal teenage behaviour. I would take having them blow in a bag, lick a spoon, or have a piece of cotton swabbed against their skin to give me peace of mind. Do you know what, if a child is in trouble with drugs—and I have seen this so many times with the Drug Beat program—and parents have been too afraid to intervene, gradually their kids have progressed to a worse and worse state because of drug use. However, once their parents have intervened in the proper way and with the appropriate language the kids have actually appreciated the fact that their parents cared enough to intervene.

This is all based on hypotheticals. When someone has not had to deal with this with their own children and has not had to learn the language and how to approach a teenager and put it as a concern, rather than a punitive approach—to say, 'I love you dearly, and I care for you. I care about where you are going with your life, and I need to know what I am dealing with so that we can get the appropriate help,' they need to realise that our children and teenagers respond well and positively to that approach. I have seen it happen. I have seen it happen with my own son. I was suspicious and expressed my suspicions and fears to him because of what my family had been through. My son appreciated the fact that I cared enough, and he went and had a drug test and, thank God, it came up negative. But there was no breakdown of relationship between him and myself.

Mr President, this afternoon you met a young man aged 19 years who came to the program. His parents were scared stiff to ask whether or not he was using drugs. He was diagnosed as a schizophrenic and, at the age of 15, as a manic depressive. He was diagnosed with all these mental illnesses, when in fact he was smoking marijuana and taking MDMA on weekends to go to parties. When the problem was identified and intervention occurred, that young man recovered. He spent two years in the program and all the signs and symptoms of his mental illness dissipated upon ceasing his drug use. He returned to school last year and achieved a score of 97 in his year 12 exams—something that was completely out of his reach or not even thought possible by his family 18 months or two years previously.

I cannot believe that we cannot move past the rights of our children and the civil liberties and just get down to the fact that we as parents, as members of this parliament and as members of the community have a responsibility to take every step we can to protect our children and make sure they know that we care enough to take measures to protect them. We are taking about 12, 13, 14 and 15-year old kids who are not anywhere near developed enough mentally, physically or emotionally to make the choices they are making, and when they make a wrong choice they are left to flounder.

All this talk goes on about drug testing being punitive. If you sell drug testing as punitive, that is exactly how our children will perceive it: as a punitive measure. If you sell it as a protective and interventionist measure, they will accept it as that. I went to a high school in the city when the bill was first introduced and spoke to year 11 and 12 kids. Before I spoke to them I asked how many would be in favour of school drug testing and a third of them put up their hand. Fair enough.

We had an interactive session for an hour and a half during which I explained the bill, outlined why it was being introduced and explained the social and familial effects of addiction (which some people in this place would like to pretend does not exist), and at the end of that talk (and my PA can verify this) I asked them again. I said, 'Now that you know what you know, rather than what you think you know, rather than what you have heard out there from people who would present this as a punitive bill, how many are now in favour of drug testing in your school?' One hundred per cent

of those kids put up their hand when they were given the right kind of information—not one hesitated.

This is all about how we as adults, politicians, parents and members of the community put this forward to our children. It has nothing to do with civil rights and nothing to do with the right of our children to choose to use drugs; it has to do with our level of responsibility as parents and adults to assert to our children that we want the very best for them.

The Hon. Nick Xenophon interjecting:

The Hon. A.M. BRESSINGTON: The very best for them would be to be living a drug-free life. I do not deny that some kids can experiment with drugs and not go on to problematic drug use, but they are kids who are well-adjusted, super-resilient and do not give in to peer group pressure. They do not have low self-image or low self-confidence and in some cases they are high achievers. But in these days and times when drugs are so readily available, so absolutely socially acceptable, and where one in three of their peers are trying these drugs, the chances of kids coming through this unscathed are getting narrower. We sit on our hands, live in our head, listen to the civil libertarians, to the Democrats and the Greens, who should still walk around with flowers in their hair—Woodstock rejects—and go back to this civil libertarian approach that our children simply are not old enough to understand or comprehend. In the meantime, while we are doing that, we are negating our responsibility. We are letting slide our responsibility and we are saying we are doing it because our children have rights. Well, we have responsibilities. If we as adults, politicians and parents do not live up to those responsibilities our children will go down the tube. I leave that with you all to think about.

I know the opposition is not ready to support this bill. I often wonder, since the Hon. Dennis Hood introduced his drug testing of politicians, whether some in this place did not go a bit cold on the idea of school drug testing. God forbid, if we say we are going to drug test our children and then as politicians we say that we are not yet ready to be drug tested, what message does that send? Think about the responsibility of that while you're at it! I wish everyone would look at all the research on this issue and not be so selective. I have looked at the failed tests and I have seen the methodology of those failed tests. It is scientifically and socially flawed.

Why cannot some of us in this place do our research on this issue and look at the papers and results from overseas? We may be anti-American but, by God, there are some areas in America that do good things with drugs; and they have reduced drug use. Some 23 per cent of their youth have experienced a reduction in drug use. Why can we not take the example of other countries, whether it be America, Great Britain or Sweden? God, no! Their results are all far too good for us. We must look to the Netherlands for our drug policy—and that is what we have been doing since 1985. It is being slipped under our nose and we are not recognising that this happening; and, if we are recognising it, then shame on us—absolutely shame on us. I leave it to the council.

Bill read a second time.

VICTIMS OF CRIME (VICTIM PARTICIPATION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 21 June. Page 435.)

The Hon. S.G. WADE: Often victims of crime are re-victimised by the legal system that is meant to give them justice. Often victims of crime are put under great stress or disadvantage in their efforts to assist the state in prosecuting offenders. Our community needs to recognise the rights of victims and provide them with more effective support. South Australia has a proud tradition of reforms to support victims, beginning with the Tonkin Liberal government's Committee of Inquiry on Victims of Crime, which laid the ground work for future legislation regarding victims' rights. The 1985 United Nations Declaration on the Basic Principles of Justice for Victims of Crime and Abuse of Power identified 17 rights which should be granted to victims. South Australia became one of the first jurisdictions in the world to recognise those 17 basic rights.

The opposition supports these rights and, indeed, it was the Liberal Party which introduced the Victims of Crime Act in 2001, which made some of these rights statutory rights in South Australian law. As an aside, I recall that one of the first pieces of legislation with which I dealt on coming into this parliament was the Hon. Nick Xenophon's bill on victim impact statements. The bill passed this place but, sadly, the government has stalled the bill in the other place. It lingers in the ether as a testament to the government's lack of commitment.

In terms of protecting the rights of victims, the Liberal Party will not simply rest on its laurels. We need to constantly be alert to support victims of crime. However, having considered this bill, the opposition is of the opinion that the creation of the victims advocate (as proposed in the bill) is not appropriate. The opposition considers that it is important that the Crown retains the initiative as the investigator and prosecuting authority in our criminal justice system. The opposition will not be supporting the bill.

The Hon. D.G.E. HOOD: I have been in this place a little over a year now—

The Hon. R.I. Lucas: Hear, hear!

The Hon. D.G.E. HOOD: Thank you—and in that time I have seen a number of good bills. This is one of the best, in my view. We strongly support the concept of a victims advocate as proposed by the Hon. Mr Xenophon. Indeed, the entire thrust of the bill is strongly supported by Family First. Unfortunately, it is the victims who are forgotten in the justice process on many occasions. How many times have we seen on our TV screens, heard on our radios or read in our newspapers of victims standing outside the courts complaining that they did not feel that the outcome was just? How many times have we all seen those images and read and heard those stories? This bill will perhaps go a significant way in addressing that problem.

If we see a small number of victims on any sort of a regular basis outside a courtroom after a case has been finalised saying that they do not feel that they have received justice, then the system is not working: it is as simple as that. The very nature of justice is that the victim should feel that their needs have been served and that the outcome was just. This bill will certainly move towards improving the current situation, which is broken. The old saying is, 'If it ain't broke, you don't fix it'. The current system is broken and it needs fixing desperately. I ask that the Hon. Mr Xenophon address the following matters in his summing up. Whilst Family First is strongly supporting the second reading, we want some clarification on some of these issues, and specifically the issue concerning new section 14G of the bill.

We have a lawyer in my office by the name of Nick Greer who did family law and also criminal matters in the district

and supreme courts, and part of that involved regular negotiations with the DPP. Consequently, I have been able to get his significant input on this bill. We like the idea that the victim should have more say when it comes to plea bargaining, so long as it does not result in further delays in our already clogged up courts. That is just one caution, if you like, which we would flag in respect of that aspect of the bill and on which we would like the Hon. Mr Xenophon to comment. Figures recently released show that only a third of trials in the District Court are finalised within a year and in the Supreme Court only half are finalised within a year, which is justice denied in itself, some might argue.

Some of these criminal cases already drag on year after year, and delays can be infuriating for victims especially—not only for the accused but also for the victims. The DPP has also been in the media lately saying that his office is also at breaking point, with too many cases going to trial for the number of staff. Practically every common law jurisdiction—lawyers and prosecution—will try to negotiate certain facts or the basis of a plea in order either to reduce the duration of a trial or the need for a trial altogether. Family First supports the second reading of this bill and, indeed, the thrust of the bill, as I said, but we want to ensure that it does not make victims' lives harder in some ways at least.

I know that that is certainly not the intention of the bill, but there is the issue of the potential for it to further impact on the court system, and we would like to hear the Hon. Mr Xenophon's perspective on this issue. Of course, one of the worst outcomes would be for victims to have to wait longer to get justice. The other concern is the concept of justice itself. We would like to hear the comments of Mr Xenophon on this issue as well. For example, a timid victim, if you like a person with a less forceful personality, may be more easily pushed into a plea bargain type situation than a victim who has a very strong personality. As I stated at the beginning, there is no doubt at all that Family First believes that this is a very good bill and the thought, if you like, underpinning it is commendable. For that reason, we look forward to the committee stage and hearing the Hon. Mr Xenophon's clarifying comments.

The Hon. P. HOLLOWAY (Minister for Police): The Attorney-General has indicated that this is an area that he has been looking at for reform, and the government will obviously support its own measures, but given the hour of the day we will not oppose the second reading of the bill.

The Hon. NICK XENOPHON: I thank honourable members for their contribution. I have just had a brief private discussion with the Hon. Mr Hood and I undertake to provide a comprehensive response to his very reasonable questions in the committee stage of this bill. I also would like an opportunity to respond to the Hon. Mr Wade's comments, again in committee. I am mindful of the time and mindful of the other business. Last year in the election campaign, I think it was about four or five days before the election, I had a media conference with Di Gilcrist-Humphrey and Carolyn Watkins to discuss the bill that I had prepared, and that is substantially this bill that is before this council.

The government put out an announcement two days later, saying they were going to do their own thing; there would be a victims commissioner and they would be moving on this, and we are still waiting for the government to prepare something. So, I do not know what has happened there. I have had some brief cordial discussions about this with the Attorney-General, but I do not know what the hold-up is. I do not understand. This was a key priority for the Rann Labor government in the last election campaign, with the 'Rann gets results' election manifesto, justice for victims talked about, the need for a victims of crime advocate to improve victims' rights, to give them more information, and victims of crime would for the first time have a legal right to be properly consulted about any charge-bargaining between the defence and the prosecution.

Her Excellency the Governor, in her speech at the opening of parliament on 27 April 2006, stated that it was on the government's agenda and that it was a priority for government that:

> Victims of crime are expected to benefit from the establishment of Australia's first independent office for the commissioner of victims' rights. Victim of crime advocates will be given the legal right to make victim impact submissions at sentencing hearings in cases that result in the death or permanent incapacity of the victim.
>
> Legislation will be introduced to give victims of crime the right to be properly consulted about plea- or charge-bargaining. A bill to amend the Sentencing Act will be introduced with the aim of requiring sentencing courts to give primary consideration to the need to protect the public from a defendant's criminal act.

And yet, there is no bill. What we have seen is an announcement about Michael O'Connell. I have to say this about Michael O'Connell: in the feedback I have had from victims of crime and from my dealings with him, I believe he is quite empathetic to victims and does a good job in his role, and I commend him for that. The government has responded by calling him the 'interim victims of crime commissioner' but there are no additional powers. It is a con.

I am not criticising Michael O'Connell; I am criticising a government that gives the veneer of saying, 'We are actually doing something about victims' rights', calling somebody an interim victims of crime commissioner, but that victims of crime commissioner does not have any additional powers. It is a con and a crock, and the sooner the government shows its hand in relation to this, the better. I hope that this bill will at least prompt the government and speed them up to do the right thing by victims of crime.

There is one more thing that needs to be said, and I refer to the case of Julie McIntyre, involving the death of her son Lee, a very tragic case where she did not have the right to read out a victim impact statement in the court. The defendant in that case was charged with driving without due care, which resulted in the death of her son. The bill was passed in this chamber, yet it is languishing in the other place because the government will not support it and it is the government's policy to go down that path. I find that anomalous and I do not understand the reason for it. It is a very straightforward piece of legislation. Do not delay that. Do not deny people such as Julie McIntyre and others who have lost a loved one through a non-indictable offence the opportunity to read a victim impact statement in front of the defendant.

With those words, I thank honourable members for their contributions. I look forward to dealing with the committee stages when we are back next, because I think that it is important that we deal with this legislation, and I hope that this bill passing the second reading stage tonight will at least spur the government to introduce its legislation sooner rather than later.

Bill read a second time.

The Hon. NICK XENOPHON: I move:

That it be an instruction to the committee of the whole council on the bill that it have power to consider the insertion of a schedule

in relation to an amendment to the Criminal Law (Sentencing) Act 1988.

Motion carried.

DEVELOPMENT ACT, PUBLIC NOTICE CATEGORIES

Adjourned debate on motion of Hon. M. Parnell:

That the regulations under the Development Act 1993 concerning Clarification of Public Notice Categories, made on 16 February 2006 and laid on the table of this council on 2 May 2006, be disallowed.

(Continued from 20 September. Page 668.)

The Hon. R.P. WORTLEY: The government opposes the motion. Schedule 9 has, since 1995, listed aquaculture development applications as category 1 (which requires no notification) where they propose development to be located in an aquaculture zone in a development plan prepared under the Development Act 1993. Similarly, since 12 June 2006, the regulations have listed aquaculture development applications as category 1 where they propose development located in an aquaculture zone in an aquaculture policy prepared under the Aquaculture Act 2001.

Further amendments are now proposed to schedule 9 to make aquaculture development applications category 1 in three areas specified in a table in the schedule. The listed areas include Anxious Bay and Port Neill in the Eyre Peninsula region and Rivoli Bay in the South-East region. None of the specified areas is currently designated as an aquaculture zone. However, the areas have been subject to environmental assessments and/or monitoring, as well as more recent supporting research through PIRSA Fisheries Research and Development Corporation's aquaculture projects.

All development applications in the specified areas will continue to require development approval from the independent Development Assessment Commission. These applications will also be subject to statutory referrals to the Coast Protection Board and the Environment Protection Authority for advice. The only development assessment change is removal of public consultation on each aquaculture development application in the three specified areas. There will, however, be statutory public consultation later in 2006 on the draft aquaculture policies being prepared for these areas under the Aquaculture Act 2001.

Therefore, on balance, the community input into the future development of marine aquaculture will not be adversely affected. The government believes that it is important to encourage aquaculture in areas where it is appropriate. As such, these regulations will discourage inappropriate aquaculture developments in other locations, as these particular locations have been specifically set aside for the purpose. The government believes that it is important to encourage aquaculture in areas where it is appropriate.

The Hon. D.W. RIDGWAY: I rise to indicate that the Liberal opposition does not support these two motions of disallowance. By way of background, it was the Liberal government, under the stewardship of the Hon. Rob Kerin, that was the architect of the aquaculture industry in South Australia. It is a very important part of our economy and a very important part of achieving any sort of export growth. I know that the current government had a goal within the strategic plan of $25 billion by 2013. That obviously has been amended since the election. Certainly, aquaculture plays a very important part in our achievement of that goal, and I know that aquaculture is a much more sensible way of harvesting fish and seafood from the ocean than perhaps wild catching as we have seen with the decimation of the southern bluefin tuna stocks. I can only hope that the aquaculture—

The Hon. M. Parnell: Caged tuna are wild. That is exactly the point.

The Hon. D.W. RIDGWAY: Hang on. Who has got the floor?

Members interjecting:

The ACTING PRESIDENT (Hon. I.K. Hunter): The Hon. Mr Ridgway has the call for the moment. I suggest he use it.

The Hon. D.W. RIDGWAY: On Monday, the ERD Committee, of which the Hons Mark Parnell and Russell Wortley are members, will visit a number of aquaculture operations. One will be Clean Seas Tuna, and I accept that right now they are tuna that are caught from the wild. Hopefully, they will close the lifecycle of those fish, and there is a whole range of other aquaculture activities that do not plunder the natural resources where they are actually farmed in a sensible and managed way. The Hon. Mr Parnell is trying to disallow a couple of regulations, particularly in the area of Anxious Bay, and I think that on our visit next week we will visit this area and an abalone farmer. I also think we are meeting with the Friends of Elliston some of whom have been opposed to it.

By way of background for the chamber, the Development Regulations of 1993 contain a schedule (Schedule 9) which lists those forms of development that are exempt from public notification, which is a category 1 development. I am sure that the Hon. Mr Parnell is aware of it, as are most members in this chamber. Since 1995, item 9 of this schedule has listed proposed aquaculture developments as category 1 where they are located in an aquaculture zone delineated in a development plan under the Development Act 1993. This implements the principle that no public notification is required if a development application is proposed in an area that has been recognised as appropriate for the proposed form of development. Similarly, in 2000, the schedule was amended to provide that proposed aquaculture developments were category 1 where they were located within an aquaculture zone delineated in an aquaculture management plan under the Fisheries Act 1982.

On 12 January 2006, the public notification schedule was amended to delete these obsolete references to the Fisheries Act 1982 and to replace them with new references to the Aquaculture Act 2001. This change simply replaced the old act references with updated ones and did not change the underlying policy within the schedule. The proposed aquaculture developments are now category 1 and exempt from public notification where they are proposed to be located in an aquaculture zone identified in aquaculture policy prepared and adopted under the Aquaculture Act 2001. I am sure all members are aware that, when a proposed aquaculture zone is proposed, there is quite an exhaustive process that the proposal goes through. It even comes to the ERD Committee of this parliament for scrutiny and, once it has had a fair degree of public consultation with the proposed zoning and once it has been zoned, these particular applications can take place within those zones.

The Friends of Elliston took this particular issue to the Supreme Court. I will quote from the summary of Justice Bleby's judgment on some of the Friends of Elliston applications. It states:

After full consideration of the facts, Justice Bleby found that the Friends of Elliston did not have standing, that the regulations under both the Development Act and Aquaculture Act were valid and that the administrative actions undertaken to remedy the status of development approval and aquaculture lease and licence were undertaken in accordance with the powers of the relevant legislation and regulations and had remedied any previous 'defects' [that they are claiming].

This has been quite exhaustively dealt with already. The ERD Committee is touring the West Coast next week to have a first-hand look at some of the issues raised by the Hon. Mark Parnell. I think this has been dealt with adequately before. We certainly do not want to stifle any sort of development, as I mentioned earlier in my contribution. Aquaculture is an important part of the state's economy, and the Liberal Party does not support the disallowance of these regulations.

The Hon. SANDRA KANCK: There were some interesting comments made in that last contribution. It is my view that, because the environment movement and the Friends of Elliston in particular were getting some traction on the issue of the location of an abalone aquaculture project in Anxious Bay, these amendments happened to be timed as they were. I personally think it was a bit like playing backyard cricket. Those people actually had the court action going when the regulations were brought down.

The first lot of regulations on 12 January effectively gave special treatment to Australian Bite aquaculture. It really was a very cynical exercise. As I read it, the government stuffed up the planning process and this was a way of redressing it. The second lot was on 16 February, and I was really very cynical about that—promulgating regulations when nobody knew about it one month out from the state election. It took a few days before the Friends of Elliston became aware of it. In that process, the government effectively fenced off an area and classified it as a category 1 development, which meant no public consultation. So, overnight an area that would have allowed category 3 developments and allowed the Friends of Elliston the right to be consulted and the right to take court action went to category 1, and their legs were cut out from underneath them.

When I found out a few days later, I phoned the minister's office to seek an explanation. I was told that the regulations were the way the government was resolving uncertainty over the need to notify. There was no uncertainty. I was also told that, under schedule 8, ABA had already had to notify, so there was no need for them to do it again. That was the point that this was clarifying, apparently.

I was also told—and this really takes the cake—that there was no need for public consultation anyhow as there are no neighbours when a development is in the middle of a bay. I consider that sort of rationale to be highly cynical and also dangerous. I look at these regulations in the light of the Rann government's promises in the 2002 election where the key was no more privatisations. However, this has privatised our seas. It privatises our common wealth.

No proper environmental assessment has been required for ABA, yet despite this the government has bent over backwards with these regulations to assist a project which could have and, I am sure, will have an environmental impact. I wonder why it is the government is not even-handed to development and the environment. Hundreds of tonnes of feed are to be tipped into that area each year as a consequence. Where is the ecological balance in that? I think the government is playing environmental Russian roulette.

Unfortunately, it is a forgone conclusion that, with the collaboration of Labor and Liberal, these two motions will be lost, and I had always expected that. Had that not been the case I would have been much more enthusiastic to get up and make this speech many months ago. What the government did in gazetting those regulations is environmentally destructive, and by doing it at the time that it did—in the middle of the election, ensuring that there was no proper media coverage of the action—to me was as if it was acting like a thief in the night.

The site at Anxious Bay is slightly over one kilometre from Waldegrave Island and its sea lion colony. That has the third largest Australian sea lion colony in Australia. I stress the word 'breeding' because, although there may be some larger colonies and there might be more of them, not all of them are breeding. The breeding is very significant because they are classed as rare in South Australia and vulnerable in the commonwealth registers. Waldegrave Island is part of the Investigator Group Conservation Park. It is part of an area that was nominated in 1988 for protection under the Wilderness Act.

I wrote to the Hon. John Hill in mid-2005 when he was the minister for environment for an explanation as to why that nomination was not proceeding, although I never received a reply. People did tell me that, if I did get an answer, the answer would be that there was a lack of suitable people to assess the application, yet it is peculiar that this government funds departments in such a way that there are suitable people to assess an aquaculture proposal. However, suitable people are not around to assess an application for wilderness protection.

Having heard the contribution from the Hon. David Ridgway, it is interesting to observe that, had the Liberals remained in government (given where they were heading with marine protection), that area would have been a marine park or a marine-protected area before we got to this situation where the government was able to put in place these development regulations. Clearly, it is an environmentally sensitive area. As no action had been taken to give the status that is necessary for marine protection, it means that damage is now allowed to be done in really what was a pristine area before this. It is unfortunate for both government and opposition that aquaculture is really a holy grail—it must never be questioned or opposed and no barriers should be allowed to be placed in its way.

This motion is retrospective. It is trying to make good something that was bad; and, in the future, it puts out of bounds 465 hectares of our seas for private use with further room for expansion for aquaculture. I think that the existence of these regulations calls into account any environmental credentials this government claims. I am very pleased to support the motion.

The Hon. CAROLINE SCHAEFER: As someone who was here and intimately involved in the implementation of the original Aquaculture Act, and as the person who normally speaks on the agriculture portfolio in this place, I would like to add my observations to the debate. The Hon. Mr Parnell is proposing to disallow two motions. I think everyone has spoken to both of them, and that is what I intend to do. The Hon. Mr Parnell argued that the new regulations, which were implemented on 12 January 2006 and 2 May 2006 respectively, take away the rights of third party appeal with regard to aquaculture zoning. Technically, he is correct. However, there is a long and exhaustive system (and I think it is

important to put on the record just what that system is) whereby site and species specific aquaculture policies are developed. They are called policies, but I think it is probably more descriptive to call them plans.

At that time, a minimum of two months (and, in practice, it is always much longer) of planning and public consultation takes place. All concerns raised at that time must be taken into account by the Aquaculture Advisory Committee, which prepares the final policy. The policy then goes before the ERD Committee of the parliament, which may refer back to the minister. If there are still problems, the minister must report to both houses of parliament. If the policy then passes, it becomes a category 1 development, and there is no right of third party appeal. So, one could hardly say that it is not a transparent system and that there is no opportunity for the public to be involved. This is similar to any land-based development which, if it is compliant to a particular zone, is not required to have third party rights of appeal.

However, a licence applied for within an approved zone may not be compliant, for instance, a licence applied for to establish a fin fish farm in an oyster zone, or the instance about which the Hon Mr Ridgway spoke, tuna farming, whereby, if Clean Seas is successful in breeding tuna in captivity, it would not be able to have a tuna farm with those fish in the same zone as wild catch tuna without its being a category 3 development. As I have said, the zones are both species and site specific, and anything outside of that policy becomes a third party appeal process.

In the past, I think we know of and have observed some potentially valuable developments that have been stopped because outside interests have been able to delay approval by the appeal process for so long that the project has become unviable. I consider—and it is generally considered—that the ERD Committee parliamentary process allows for extensive scrutiny without preventing development.

Some concern has been expressed by Coffin Bay oyster growers with respect to these regulations. They are concerned about the shifting of farms within their zone and concerned that some of their neighbouring oyster growers may shift too close to theirs. However, most of those fears have been allayed. I point out that the regulations have been in place and operating without a great outcry for over 12 months, and the general consensus of the operators of aquaculture and citizens of those regions who I have contacted is that the advantages of these regulations far outweigh the concerns. Along with my party, I oppose the motion.

The Hon. M. PARNELL: I thank the honourable members who have spoken to the motion—the Hons David Ridgway, Russell Wortley and Caroline Schaefer—and I particularly thank the Hon. Sandra Kanck for supporting the motion. I am not going to repeat what I said when I moved the motion, although it was some time ago and members may have forgotten. However, I do need to respond to some of the things that have been said today. I will start with some of the comments made by the Hon. David Ridgway. He noted that, in the Supreme Court, his Honour Justice Bleby said that the regulations were valid. Yes, the regulations were passed; there was no question that there was any administrative error made. The regulations were passed.

The fact that a Supreme Court judge says the regulations were valid does not mean that they are good regulations. The reason I have moved for the disallowance of these regulations is that they are bad regulations. They are bad policy, they are bad law, they disenfranchise communities, and they effectively privatise the sea for exclusive industrial development.

The Hon. David Ridgway made the point (which I myself was going to make) that, as members of the Environment, Resources and Development Committee, we will be going over to the West Coast to have a look at a number of aquaculture developments. I invite the Hon. David Ridgway, when we meet with the Friends of Elliston Environment and Conservation Inc., to repeat to them what he has told this council; that is, that the Liberals do not want to stifle any form of development. He needs to say that to those people and he needs to say it means that their rights must always suffer on the altar of development.

It is a real tragedy that this debate has to boil down to the false premise—and I think the Hon. Caroline Schaefer's contribution highlighted this false premise—that, if you support aquaculture, then you should support any mechanism that is put in place to allow aquaculture to proceed unimpeded. I have not said, in my contribution, 'All aquaculture is bad; we must stop all aquaculture.' What I have said in my motion and in my contribution to this debate is that the most important thing is that the commonwealth, the commons, the sea should be subject to proper processes of scrutiny and should be subject to accountability mechanisms, such as the ability to go to the umpire when bad decisions are made that affect the commons.

The Hon. Caroline Schaefer pointed out that there are mechanisms in the Aquaculture Act for people to comment on aquaculture policies and plans and, therefore, having that ability to comment, there is no need—as these regulations now provide—for any further right of comment or consultation under the Development Act. But I point out to the Hon. Caroline Schaefer—and I am not going to speak twice; I am speaking in an omnibus fashion to both these regulations—that we should have a look at the operation of that second lot of regulations and at what the executive branch of government did. It put some latitude and longitude coordinates in the regulations, and it said that anyone who operated within those coordinates was immune from the public participation requirements of the Aquaculture Act—because that area had never been through any proper process under the Aquaculture Act—and, most importantly, under the Development Act there were no rights of notification, no rights of representation and no rights of appeal.

That was one of the most outrageous regulations I have seen, whereby the government could abandon and dismiss all rights of public participation by putting some geographic coordinates in those regulations. What is going to come next? Will they put some geographic coordinates around the City of Adelaide or some other area and say, 'No-one has any rights within those coordinates'? That was an outrageous abuse of process.

Whilst I am on the topic of the difference between public consultation under the Aquaculture Act and under the Development Act, I, too, was involved in those early days when the Aquaculture Act was being written. The act was written after the Conservation Council defeated the Development Assessment Commission in court, because the process for assessing development was a complete shambles. The Conservation Council managed to overturn 42 tuna cages in Louth Bay, on the basis that the system of processing those applications was so inept.

When we started to look at this new Aquaculture Act, which I have conceded in this place is an improvement on the old Fisheries Act, I put to government officers that I wanted

to have the right to appeal against aquaculture leases and licences. It was put to me, 'Don't be stupid: Why do you need two lots of appeal rights? You don't need to be able to appeal under the Aquaculture Act because you have the right to appeal under the Development Act,' because all forms of aquaculture in the open sea were category 3 developments. Every one of them was available for appeal to any member of the community who felt that that was an inappropriate development. Like a fool, I guess, I said, 'That's a fair call. We have rights under the Development Act, but hang on: you'll take those rights away from us and then we will have nothing.'

I was told by the government officers, 'Don't be stupid: there is no intention on the part of the government to take away your Development Act rights.' So, we did not get those rights built into the Aquaculture Act and they have now been effectively taken away under the Development Act. What these new regulations do is say that if Primary Industries thinks that an area is appropriate for aquaculture and it zones it for that purpose, a process that has no appeal rights but does have the soft right of comment, but certainly no right of challenge, you will not be able to challenge any aquaculture there. In terms of those other regulations, if the government wants to do this again, if it wants to put some more coordinates into a regulation and say that within that zone no-one has any rights, then I think that we have completely lost any semblance of common wealth over our seas.

Effectively, what those regulations do is privatise the commons, and the message they send to the community is, 'You have no rights over the sea: the only industry we care about is the aquaculture industry and you can kiss goodbye to those rights that you had up until January 2006 to be notified, to make submissions and to appeal against these forms of development.' I am disappointed that no-one other than the Hon. Sandra Kanck has seen fit to recognise the importance of these regulations. They might seem to be very specific and relate only to a very small issue, but the importance of these regulations is the message they send to the community; that is, that the sea is no longer common property. It is now private industrial land. I urge all members to support this motion.

Motion negatived.

DEVELOPMENT ACT, MISCELLANEOUS REGULATIONS

Adjourned debate on motion of Hon. M. Parnell:

That the miscellaneous regulations under the Development Act 1993, made on 12 January 2006 and laid on the table of this council on 2 May 2006, be disallowed.

(Continued from 20 September. Page 668.)

The Hon. D.W. RIDGWAY: I will not be speaking very long. The Liberal Party opposes this disallowance.

The Hon. R.P. WORTLEY: We oppose this motion, and for the very same reasons that I mentioned in the last motion.

The Hon. M. PARNELL: I thank the Hon. David Ridgway and the Hon. Russell Wortley for their brief contributions. It is not that I have run out of puff: I have more to say but I will not. I have said it in the previous motion. Again, I believe that this is such an important matter of principle that I do want the *Hansard* to record the views of, in particular, the major parties in this place. I urge members to support this motion.

Motion negatived.

CRIMINAL LAW CONSOLIDATION (SERIOUS CRIMINAL TRESPASS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 7 February. Page 1389.)

The Hon. S.G. WADE: I have been inspired by the earlier unprepared comments of the Hon. Ann Bressington to wax lyrical, but the late hour perhaps suppresses my inspiration. I rise to speak briefly on this matter and indicate opposition support for the bill. Break-ins in pharmacy premises are a serious issue in our community. In many robberies, once the goods are taken they do not represent a danger to the community; however, with a pharmacy robbery the product of the robbery can add to the supply of drugs in the community and the supply of ingredients to manufacture drugs, and it is important to control the supply of controlled drugs in the community because these can have extremely damaging effects.

The whole concept of serious criminal trespass recognises circumstances such as these where the trespass is not a simple burglary but something more serious with the potential to result in greater harm, and the opposition supports treating burglary of pharmacies as serious criminal trespass. While supporting this bill, the opposition does indicate that it is not completely comfortable that it reflects good legislative practice. It is uncomfortably similar to the practice of this government to legislate to increase the penalties of crime rather than taking substantive steps to reduce crime, and we would have preferred the bill to be built around a policy rationale that could be applied more broadly. With such a policy rationale we may well find that other members of the community may also need enhanced protection. However, the opposition supports the second reading and intends to support the bill through all its stages.

The Hon. R.P. WORTLEY: The government will not oppose the second reading. We will give a more detailed response during the committee stage.

The Hon. NICK XENOPHON: I find myself substantially in agreement with the comments made by the Hon. Mr Wade, and support the second reading of this bill. I look forward to its committee stage.

The Hon. R.D. LAWSON: I indicate that, although my party is supporting this bill, I myself have severe reservations. This is exactly the sort of legislation that members of the opposition criticise the government about. An issue arises such as throwing rocks at vehicles, for example, and, although the criminal law already covers the situation of persons endangering the lives of others by throwing rocks, we introduce a law not for the purpose of protecting the community against people who throw rocks but for the purpose of solving the political problem that has arisen, because the Premier is being asked 'What are you doing about throwing rocks?' 'Well, we are going to pass a law to stop it.' Now, it does not have that effect. Once again we find that there has been a spate—

Members interjecting:

The Hon. R.D. LAWSON: Yes; of course when it gets to throwing rocks, they introduce a bill that talks about throwing rocks, but then someone says, 'What happens if the car is stationary?' and so they make it moving vehicles. 'We won't make it rocks; we'll make it prescribed implements, and we will prescribe those implements.' So now it is rocks; it will be oranges later, or rotten eggs, etc. We criticised the Rann Labor government for introducing the Summary Offences (Consumption of Dogs and Cats) Amendment Bill when it was said that there was a serious problem about people eating dogs in South Australia; it turned out that there was no such problem.

We also criticised the government when it said that it would toughen the penalties on serious drug offenders; what it did was introduce a law which had so little understanding of the issue that it actually reduced the penalties. The government said that it would abolish the drunks' defence; on every analysis—

The Hon. P. HOLLOWAY: I rise on a point of order. It is 11.45 p.m. on the last night. Do we really need to hear something that is totally irrelevant to the bill? My point of order is that this has nothing whatsoever to do with the bill in question.

The PRESIDENT: The Hon. Mr Lawson will stick to the bill.

The Hon. R.D. LAWSON: Mr President, the relevance of these remarks is that we criticised the Rann Labor government for introducing measures which are designed to address a particular issue with the public but which do not have the effect of really protecting the public. Obviously there is a serious issue about people breaking into chemist shops, so we make that an aggravated offence. Why not explosives depots? Why not gun shops? Why not other places where things can be stolen for use in criminal purposes? When I say why not those things, when somebody does break into an explosives depot, the Rann government will introduce a measure to say, 'We're going to make explosives depots the site of aggravated offences; likewise gun shops and likewise any other premises.' Consistent with the approach I take to the cynical approach of the Rann Labor government to these measures, I have to express similar cynicism about the effectiveness of a measure of this kind.

The Hon. D.G.E. HOOD: I would like to sum up very briefly, honourable members will be pleased to know, and I will be just two or three minutes.

The Hon. G.E. Gago interjecting:

The Hon. D.G.E. HOOD: Well, give me two or three, Gail. I thank members for their contribution and the opposition for its indication of support. I will not bother repeating the bill in great detail, except to say that, essentially, it attacks what has become a very serious problem in our community. Whilst the Hon. Mr Lawson makes the point that he does not see that such bills are necessary, I concede that he has a point at some level. However, we believe that, if the courts did their job, there would not be a need for these bills—but the courts do not do their job: it is as simple as that. It seems that the Hon. Mr Lawson has greater faith in the court system than I have.

I will give an example. Just yesterday, three more pharmacies were broken into: the pharmacy on Lower North East Road in Campbelltown at 1.45 in the morning; one on Belair Road in Mitcham at 3.20 in the morning; and one at Burnside Village in Glenside at 3.40 in the morning. So, it is still happening. Why are they doing it? They are drug dealers breaking in to get pseudoephedrine which they can use as a precursor for illegal substances. I will not delay the house any further. I commend the bill to the council and thank honourable members for their contribution.

Bill read a second time.

STANDING ORDERS SUSPENSION

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

That standing orders be so far suspended as to enable the Clerk to deliver the message and the Terrorism (Preventative Detention) (Miscellaneous) Amendment Bill to the Speaker of the House of Assembly, notwithstanding the fact that the House of Assembly is not sitting.

Motion carried.

SITTINGS AND BUSINESS

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

That the council at its rising adjourn until Tuesday 17 April 2007 at 2.15 p.m.

I point out to newer members that, if it pleases Her Excellency, and if she takes the advice of the government, the parliament will be prorogued before then, and we will be back here on 24 April to celebrate the 150th anniversary of responsible government. This is a procedural motion.

Motion carried.

DEVELOPMENT (ASSESSMENT PROCEDURES) AMENDMENT BILL

The House of Assembly agreed to the bill without any amendment.

STATE LOTTERIES (MISCELLANEOUS) AMENDMENT BILL

The House of Assembly agreed to the amendments made by the Legislative Council without any amendment.

ADJOURNMENT

At 11.50 p.m. the council adjourned until Tuesday 17 April at 2.15 p.m.