LEGISLATIVE COUNCIL

Thursday 24 March 2011

The PRESIDENT (Hon. R.K. Sneath) took the chair at 14:17 and read prayers.

PAPERS

The following papers were laid on the table:

By the Minister for The Arts (Hon. M.D. Rann)—

South Australian Film Corporation—Annual Report 2009-10

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

Podiatry Board—Annual Report 2009-10

SA Health—Progress Report 2 on the Social Development Committee's Report on the Inquiry into Obesity and the Eat Well Be Active Healthy Weight Strategy for South Australia 2006-10—Report

SPOONER, MR NEIL

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:19): I lay on the table a copy of a ministerial statement made today by the Minister for Recreation, Sport and Racing regarding Mr Neil Spooner.

CITIZEN'S RIGHT OF REPLY

The PRESIDENT (14:20): I have to advise that I have received a letter from Mr Michael Wohlstadt requesting a right of reply in accordance with the sessional standing order passed by this council on 11 May 2010. In his letter of 17 March 2011, Mr Wohlstadt considers that the Hon. Mr Holloway made comments during the debate on matters of interest on 9 March 2011 and believes they are a personal attack on his reputation.

Following the procedures set out in the sessional standing order, I have given consideration to this matter, and I believe that it complies with the requirements of the sessional standing order. Therefore, I grant the request and direct that Mr Wohlstadt's reply be incorporated in *Hansard*.

To the Honourable President,

COMMENTS MADE BY THE HON. P HOLLOWAY MLC 9 MARCH 2011

I write in response to comments made about me by the Hon. P. Holloway MLC on 9 March 2011 at 3.21pm.

These comments have detrimentally affected my personal and professional reputation.

I respectfully request that the following response be published in Hansard.

Response to comments

I respond to the following comments made by the Hon. P Holloway:

"The legal action taken by Gawler council, in particular its Chief Planning Officer, Mr Michael Wohlstadt…"

I have not personally and improperly caused legal action to be undertaken against the Hon. P Holloway, who was the Minister for Urban Development and Planning at the time that the Town of Gawler's proceedings were commenced.

This comment is, with respect, incorrect. The elected body of the Council resolved to commence and continue its proceedings on the basis of independent legal advice, and after careful consideration of the interests of its community. My role as an officer of the Council was to implement the Council decisions.

The legal action referred to by the Hon. P Holloway was undertaken by the Council as a corporate body, and was not in any way undertaken by any individual officers of the Council.

"The motivation for this action by the Chief Planner of Gawler council…'

The legal proceedings against the then minister were undertaken pursuant to resolutions of the elected body of the Council after careful consideration and briefings on independent legal advice by legal advisors as requested by the Council. I deny that they were unduly influenced or motivated by me.

"Mr Parnell has been trotting around trying to get councils everywhere to seek judicial review of planning decisions…He is in league with this planner."

Contact with the Hon. M Parnell MLC regarding the Gawler Racecourse DPA was on 9 November 2009, when, again on instructions from the Council, I wrote to him to invite him to the Council's community forum on the Gawler Racecourse DPA. The same invitation was sent to a variety of community leaders, which on advice from the Council, had shown an interest in the Racecourse DPA.

I do not recall receiving a response to this invitation.

The only other occasion where I have had contact with Mr Parnell is when he sent me an e-mail urging the council to attend the Environment, Resources and Development Committee's hearing concerning the Gawler Racecourse DPA. The decision was taken, contrary to Mr Parnell's suggestion, to attend.

Documents obtained by Mr Parnell under the Freedom of Information Act 1991 were supplied to me by an elected member of the Council, not by Mr Parnell. I have never had an opportunity to read them as the Council had already commenced its action in this matter by the time they were given to me.

I deny that Mr Parnell is "in league" with me.

I believe that the use of the term "in league" suggests impropriety on my behalf concerning the legal action undertaken by the Council which, for the reasons given above, is incorrect.

"I understand Mr Wohlstadt also has approached other major property owners and developers in Gawler to support their legal challenge. I will take that up further in a later debate."

This comment, again, implies improper conduct or impropriety on my behalf which I strongly deny. I have not approached any other property owners, major or not.

Any actions I have undertaken in relation to the Gawler Racecourse DPA have been at the direction, or with the authorisation of the elected body of the Council. All of the court documentation and actions bear my name to meet the Court's requirements. This is a consequence of my role as a senior officer of the Council, acting under its direction. I believe that this is a personal attack on me and my reputation which is unfair and unwarranted and my actions were simply those of a public officer acting in accordance with his/her duty.

Yours sincerely,

Michael Wohlstadt MPIA CPP

Members interjecting:

The PRESIDENT: Order!

QUESTION TIME

GAWLER COUNCIL

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:21): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations and Planning, questions, fortuitously, about the Town of Gawler v Minister for Urban Development and Planning.

Leave granted.

The Hon. D.W. RIDGWAY: As members would be aware, on 25 February this year His Honour Justice Duggan handed down a judgement in the matter of the Town of Gawler v Minister for Urban Development and Planning. Notwithstanding the matter being dismissed, in my view, the judgement outlines some significant problems with the Development Act and the DPA process. My questions are:

1. Has the minister read the judgement?

2. Is the minister aware that, on 24 February 2009, before the DPA was completed by the Department of Planning and Local Government and eight months before its release for public consultation, the Town of Gawler wrote to the former minister for urban development and planning to express its concern about the process?

3. Is the minister comfortable with local government (that is, the responsible planning body) being frozen out of the DPA process when there was clearly an opportunity to work with them on the DPA?

4. Does the minister believe that the lukewarm description by the independent planning officer within the Department of Planning and Local Government towards the proponent's retail study as 'defensible' is the benchmark for future planning decisions involving large-scale retail floor space?

5. Notwithstanding the judgement, does the minister believe that section 24(1)(g) of the Development Act, which has been interpreted to allow the minister to have formed an opinion of the DPA prior to its release for public consultation, puts the cart before the horse?

6. Does the minister believe that section 26(8)(b) of the Development Act, which permits the minister to alter a DPA and then approve the alteration without consultation, undermines the proposal?

The Hon. P. Holloway interjecting:

The Hon. D.W. RIDGWAY: You have already been disgraced today with a citizen's right of reply. My questions continue:

7. Given these obvious failings, will the government now seek a wideranging review of the Development Act in order to restore faith in the planning system?

The PRESIDENT: The minister can answer the question and the number of supplementaries that come with it if he wants.

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:23): Yes, thank you, Mr President. I thank the Leader of the Opposition for that thorough question, which was really, I think, seven questions in one. In relation to the Gawler matters, I will refer those to my colleague the Deputy Premier in another place and bring back a response. However, I would remind the house that Justice Duggan found no error in the decisions of the former minister (Hon. Mr Holloway) regarding the DPA.

Many of the questions the Hon. Mr Ridgway asked went to the development legislation and whether it is sufficient. Well, as I understand it, we spend a third of our time in this place talking about the great ideas of honourable members opposite. So, if he thinks that there is a problem with the Development Act, he can do something about it and move a bill in this house.

The PRESIDENT: A further supplementary from the Hon. Mr Ridgway.

GAWLER COUNCIL

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:24): How do you rate the judgement?

The PRESIDENT: The Hon. Ms Lensink.

Members interjecting:

The PRESIDENT: The Hon. Mrs Zollo.

WOMEN IN LEADERSHIP

The Hon. CARMEL ZOLLO (14:24): Thank you, Mr President.

Members interjecting:

The PRESIDENT: Order!

The Hon. CARMEL ZOLLO: I seek leave—

Members interjecting:

The PRESIDENT: Order! The Hon. Mrs Zollo.

The Hon. CARMEL ZOLLO: Thank you, Mr President. I seek leave to make a brief explanation before asking the Minister for Public Sector Management a question about women in executive positions.

Members interjecting:

The PRESIDENT: I called the Hon. Ms Lensink three times.

Leave granted.

The Hon. CARMEL ZOLLO: The percentage of women in executive positions has increased from 29.4 per cent, when the Strategic Plan target was set in 2003, to 42 per cent in 2010. This is a significant increase, with nearly a third more women in executive positions in the South Australian public sector than in 2003. My questions are:

1. Can the minister provide more detail about the importance of women in executive positions?

2. What are some of the elements that contribute to the advancement of women?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (14:25): I thank the honourable member for her important question. Certainly, there is a strong commitment from this government to achieve equity for women in the public sector executive. In fact, South Australia's Strategic Plan target 6.23 aims to have women comprising half of public sector employees in executive levels by 2014. As Minister for the Status of Women, philosophically I am certainly committed to reaching these goals, but this is more than just about philosophy. This is about common sense, smart management and also leadership role models.

I have long been impressed by the Commissioner for Public Sector Employment Warren McCann's compelling business case for achieving the women in executive positions target. In the business case, the commissioner is essentially making the point that increasing the number of women executives not only is the right thing to do but the smart thing to do. We know that skilled and capable women are out there who can bring an innovative and insightful approach to senior levels of government and we need their abilities on board to meet the challenges of the future.

It is an unfortunate reality, however, that this enlightened view is taking time to sink in for some people. It is obvious to me that there is still a broader cultural problem to address here, and that problem is old-fashioned sexism. It seems that some are still keen to associate women with home and children, not the workplace and careers, and there are those who persistently judge women based on their appearance and gender. For women in the public eye this is particularly true, and it seems to me that, for instance, our own Prime Minister continues to be judged as a woman first and as a politician second, with a lot of attention placed on her clothing, her outfits and her physical appearance, rather than her politics.

I am sure members are aware of the disgraceful behaviour of the opposition leader, Tony Abbott, yesterday. It is absolutely appalling that he chose to stand in front of a sign which is so blatantly sexist and offensive. It is not so much that those signs were personal attacks on the Prime Minister—

Members interjecting:

The PRESIDENT: The opposition should not allow the minister to wind them in.

The Hon. G.E. GAGO: It is not so much that those signs were personal attacks on the Prime Minister: it is that the language used was negative and derogatory and attacked women. It is one thing to enter into a vigorous political debate—and no-one wants to stifle that—and sometimes we use powerful and emotive statements to make our points in politics, but those signs contained language and messages that were crude, rude and outright offensive.

There is no room for sexism in our public debates, and I am astonished and deeply disheartened that Mr Abbott's female colleagues, Bronwyn Bishop and Sophie Mirabella, chose also to be involved. I cannot believe that they stood there in front of those signs, that they did not feel some sense of shame and that they did not ask themselves what on earth they were doing there associating with those offensive remarks to women.

What do their actions, by standing in front of those signs, say to the women of this nation? Tony Abbott, Bronwyn Bishop and Sophie Mirabella condoned those offensive comments. That is what their actions did. What was Tony Abbott's response this morning? He chose to get on his bike and ride off, not into the sunset but actually the sunrise. Shame on you, Mr Tony Abbott! I understand that he was reported in the media today at 12 noon saying that no apology was necessary.

The really sad part about this is that the Liberal Party actually seems to be proud of this behaviour. I challenge Mr Abbott, if he has a shred of decency or courage, to formally apologise to the Prime Minister and to all Australian women. He should apologise to those women who fought long and hard to ensure that they were not judged on their gender alone and that they were not treated in a sexist way. It is so important that our leaders provide these positive cultural examples and that they respect and value women.

I also challenge the leader of the state Liberal Party, Ms Isobel Redmond, to join me in condoning this shameless behaviour—

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: Again, I put on the record that I challenge—

The PRESIDENT: Order, Minister!

The Hon. R.P. WORTLEY: Point of order, Mr President. I find it quite offensive that the Hon. Mr Stephens shouts out 'stupid' to a minister who is trying to give an answer. I think it is disrespectful and should be curtailed.

The PRESIDENT: The opposition should come to order. The minister.

The Hon. G.E. GAGO: I reiterate that I challenge the leader of the state Liberal Party, Ms Isobel Redmond, to join me in condemning this shameless behaviour. We should condemn this behaviour—

Members interjecting:

The PRESIDENT: Order! She can have eight, like the Hon. Mr Ridgway.

The Hon. G.E. GAGO: I also challenge the other women of the Liberal Party in this chamber to join me in condemning the actions of Tony Abbott and senior Liberal women. I challenge members here, the Hon. Michelle Lensink and the Hon. Jing Lee, to stand up and condemn this outrageous behaviour.

Unlike Mr Abbott and his colleagues, time is actually on the side of women. In 2009-10 South Australia recorded the highest percentage of women in executive positions in all Australian states. We are leading the nation in the number of women executives; as of June 2010 approximately 42 per cent of executives were women, an increase of 3.3 per cent since 2009. This is a very positive indication of the momentum we are gaining.

I look forward to the day that figures such as these are no longer remarkable, when the habits and patterns that prevent women's full participation are seen as the dusty relics of the past. In the meantime, efforts to bring about change will continue unabated, and I will continue to challenge in a fearless and ferocious way.

POLICE, IMPOUNDED VEHICLES

The Hon. J.A. DARLEY (14:33): I seek leave to make a brief explanation before asking the minister representing the Minister for Police a question regarding delegated authority.

Leave granted.

The Hon. J.A. DARLEY: On Friday I was contacted by a constituent who owns a trucking company. One of their drivers had been pulled over by the police and was discovered to have drugs in his system. Pursuant to the Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act, the vehicle was impounded.

The owner of the vehicle was not aware of his driver's actions and certainly did not condone them. Further to this, my constituent faced significant financial losses if the vehicle continued to be impounded and therefore applied to the police commissioner for the release of the vehicle pursuant to section 8(2)(a) of the act.

I understand that a SAPOL officer recommended that the vehicle be released based on the information above. However, the commissioner had delegated his authority to allow the release of vehicles to the Director of Business Operations in SAPOL. The director was not available until Monday, and the commissioner refused to authorise the release as he did not want to set a precedent for these matters. As a result, it seemed like the vehicle would continue to be impounded for the weekend at least. My questions to the minister are:

1. What is the point of the commissioner having this authority if he refuses to exercise the authority?

2. Why are there no contingency plans for these situations?

3. Will provisions be made for authorisation to be given in similar situations in the future?

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:35): I thank the Hon. Mr Darley for his questions. I will refer them to the Minister for Police in another place and bring back a response. I would make two points. One is that delegation is a very common part of our administering the law

and, if it were not able to be done, I think that there would be a lot of laws which would become a lot more difficult—or almost unworkable—if individuals had to exercise all their powers individually on every occasion. Secondly, I would point out that, of course, the government does not direct the Commissioner of Police. He is independent. We trust the commissioner to know what is best in his administration and leadership of the police force. We do not tell him what to do on operational matters.

SEXIST AND DEROGATORY LANGUAGE

The Hon. J.M.A. LENSINK (14:36): My questions are to the Minister for the Status of Women. Where were her media appearances decrying derogatory language and/or attitudes towards women in the following instances:

1. when Mark Latham called journalist Janet Albrechtsen a 'skanky ho';

2. when it was exposed that the Australian Labor Party owns the Colac Hotel, which regularly runs strip shows;

3. when football clubs have responded inappropriately to violence against women;

4. when Coca-Cola ran an advertisement which implied that all women were available for sex if a man consumed their product; and

5. on the numerous occasions when her own former treasurer and deputy premier has verbally abused the member for Bragg?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (14:37): Thank you, Mr President. I am very pleased to have an opportunity to talk further on the importance of making sure that we remove all sexist/derogatory language—and, for that, matter behaviour—from our culture and our society. I think that is a really important thing that we should aim towards and an ongoing challenge, as we know that sexism and some of that sexist/derogatory language are still rife in our community, as we have seen by those disgraceful comments of Tony Abbott and his performance at the rally yesterday.

As I have already said, it is important. This is not about trying to stifle particularly the cut and thrust of political debate. It is most important that robust debate and discussion can take place, and we know that often issues elicit quite emotive and passionate responses from people, and that is a positive thing. It is good to see people speaking from the heart and it is good to see people passionate and committed, but there is a big difference between crossing the line from this robust and passionate debate to one of being offensive, sexist and derogatory.

I stand here today and say that any member of parliament, in particular any leader in our community—

Members interjecting:

The PRESIDENT: Order! The minister.

The Hon. G.E. GAGO: Again, I will repeat, because of the noise in the chamber, that I stand here today and condemn any sexist/derogatory behaviour, particularly from members of—

Members interjecting:

The PRESIDENT: Order! Members on my left should not waste their time interjecting. They do not want to listen to your answer. The Hon. Ms Lensink should listen to the answer as she asked the question, and the Hon. Mr Lucas should allow the Hon. Ms Lensink to hear the answer. The honourable minister.

The Hon. G.E. GAGO: As I said, I stand here today making it very clear that, for any community member, but particularly members of parliament and our community leaders, I believe that in respect of the standards of behaviour the expectations of our community are higher and our behaviour should be above reproach, and it should be able to be held up as a model for our community.

I feel quite strongly that the behaviour of members of parliament and our community should be above reproach. I clearly condemn any behaviour that is sexist or derogatory. If any member has been guilty of that, they too should apologise for their offensive behaviour. As I said, that covers all members of our community, including our leaders. I think that is a strong message for everyone here in this chamber, for all members of—

Members interjecting:

The PRESIDENT: Order! We are going nowhere with this. I think the minister should wrap up the answer. They are not interested; the opposition is not interested.

The Hon. G.E. GAGO: Clearly, they are not interested in my answer. To summarise, it is a strong message for all members of parliament, particularly our leaders, that sexist, offensive and derogatory language is completely unacceptable.

RIVERLAND SUSTAINABLE FUTURES FUND

The Hon. S.G. WADE (14:41): I seek leave to make a brief explanation before asking the Minister for Regional Development a question about the Riverland Sustainable Futures Fund.

Leave granted.

The Hon. S.G. WADE: On 15 February 2010, Karlene Maywald, one of two Labor ministers to lose their seats at the 2010 election, and Paul Caica, then minister for regional development, issued a media release, headed 'Major investment in a sustainable Riverland economy.' The opening paragraph states:

> The state government today announced it will invest $20 million over four years in a Riverland Sustainable Futures Fund to help create a more diverse industry and promote further investment in existing businesses.

Members interjecting:

The PRESIDENT: Order!

The Hon. S.G. WADE: I reiterate that the statement did not say that the government will invest up—

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Wade might want to start again.

The Hon. S.G. WADE: Thank you, Mr President. On 15 February 2010, Karlene Maywald, one of the two Labor ministers to lose their seats at the 2010 election, and Paul Caica, then minister for regional development, issued a joint media release, headed 'Major investment in a sustainable Riverland economy.' The opening paragraph read:

> The state government today announced it will invest $20 million over four years in a Riverland Sustainable Futures Fund to help create a more diverse industry and promote further investment in existing businesses.

I note that the statement did not say that the government will invest up to $20 million; it said the government will invest $20 million.

In the *Riverland Weekly* on 18 February 2010, the then member for Chaffey (the then minister) said, 'The $20 million is now in the budget.' In answer to a question on Tuesday in relation to the Riverland Sustainable Futures Fund, the Minister for Regional Development said:

> If there are any outstanding funds at the end of this financial year, I will be arguing most strongly—ferociously, nonetheless—and fiercely negotiating to ensure that any outstanding funds are carried over.

Those words are not a guarantee of an automatic carryover. The Riverland is at risk of receiving considerably less than $20 million. My questions are:

1. Can the minister advise the funding period for the Riverland Sustainable Futures Fund, that is, whether it is funded on a financial year basis or some other basis?

2. How much has been spent in the first year of funding, or has been spent to this point in the first funding year?

3. Why has the government backed away from its election promise to invest $20 million over four years?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (14:44): The member's assertions are simply outrageous, incorrect and completely misleading, as usual. It is completely outrageous. We have quite clearly put on the record that the $20 million fund is over a period of four years. The $20 million fund, as I said, is available over the four years and will be accessible to organisations, industries and businesses to fund future projects to make major sustainable changes in their region. A significant commitment has been given from 2010-11 through to 2013-14—over four years: 2011-12, 2012-13 and

2013-14, I believe—in line with whatever our original announcement was. In the 2010-11 budget, we budgeted $5 million per financial year over those four years.

Thus far for this financial year, there has been a commitment of about $2 million to go from the fund to the Flinders University Rural Clinical School project. That is subject to the successful application for federal funding. The federal university application for the federal government's Structural Adjustment Fund is seeking, I understand, $25.7 million, and the total project cost is $31 million. I made other announcements in my recent visit to the Riverland area, so other smaller amounts of money have been made available.

As I said yesterday, if we are not able to expend the $5 million from the Sustainable Futures Fund this financial year, I will be using the budget process to ensure that any outstanding funds are carried over into future financial years. I have given a commitment on the public record that I am committed to fulfilling the $20 million spending commitment within the four years as per our election promise in 2010-11. So, I am, indeed, very committed and have put on the public record in a number of forums and functions that I am committed to ensuring that the full $20 million is expended within that four-year period.

It is always challenging to get a new large project off to a start. These can involve very large commitments and significant partnerships, and a great deal of work has been done by the department as well as the RDA to look at projects. We established a task force, as you would be aware, Mr President, to assist in helping to identify priorities for the region.

The RDAs have been very busy establishing road maps for their areas and assisting in identifying projects and, from those projects, identifying priorities for their particular regions. It has taken some time for them to get going, to start producing those plans and to start to stimulate ideas and projects from the community. Nevertheless, there are some good projects being generated out there, and I am sure that these projects will continue to develop. I am confident that lots of initiatives will be presented. I am very confident, given the innovative and very hard work of members of the Riverland, that they will be providing us with many wonderful potential projects to help increase the investment and sustainable future of that region.

As I said, the opposition is shameless in its attempt to try to mislead this place and to distort the facts. This is a very good example of an election promise that we are, indeed, very committed to. Even in challenging and difficult times, we are able to regroup, refocus and continue forward to our objective, which is to invest $20 million into our Riverland area over the next four financial years, that is, from 2010-11 through to 2013-14. The honourable member's comments are simply outrageous and are an attempt to try to mislead this place yet again.

WORKCOVER CORPORATION

The Hon. I.K. HUNTER (14:51): My question is to the Minister for Industrial Relations. Will he describe what the government is doing to support the introduction of industry-specific qualifications for aspiring and existing claims managers working in the workers rehabilitation and compensation industry?

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:51): I thank the Hon. Mr Hunter for his question. I am pleased to advise the chamber that WorkCoverSA has facilitated the introduction of a Certificate IV in Personal Injury Management (Claims Management) to South Australia. WorkCover's support for the introduction of this qualification reflects its commitment as a regulator to the professional management of workers compensation in South Australia. The introduction of the Certificate IV in Personal Injury Management is a critical step in building claims management capability within the scheme.

WorkCover is currently consulting with employee and employer representatives regarding the training provided to rehabilitation and return-to-work coordinators. The Certificate IV in Personal Injury Management (Claims Management) is a nationally recognised qualification based on agreed national industry standards. I understand both New South Wales and Victoria have successfully piloted delivery of the qualification. WorkCoverSA has been working closely with the South Australian workers compensation industry to adapt the content of the program to the South Australian Workers Compensation Scheme. A pilot delivery of the program commenced on 3 March this year and will be completed by the end of February 2012.

The Certificate IV in Personal Injury Management will meet a specific need in South Australia for industry-specific qualifications. The qualification has been developed to address

the claims management skills required for personal injury management in the South Australian scheme. A total of 26 participants, drawn from across the workers compensation field, have been funded by WorkCoverSA to participate in the pilot. This is an important investment by WorkCover in monitoring the skills and capabilities of those in the sector.

Participants in the pilot include 15 employees of the scheme's claims agent, Employers Mutual, and five employees of privately self-insured employers—namely, ETSA Utilities, OneSteel Whyalla, Nyrstar Port Pirie, Orlando Wines and Hills Group—as well as six WorkCoverSA employees.

The pilot delivery is being undertaken by DeakinPrime, which has successfully piloted the program in New South Wales and Victoria. WorkCoverSA is already working with local registered training organisations to enable ongoing delivery of the qualification. I am sure this initiative will play an important part in assisting with efficient and effective claims management for injured workers in this state.

BOSTON CONSULTING GROUP

The Hon. T.A. FRANKS (14:54): I seek leave to make a brief explanation before asking the Minister for Industrial Relations, representing the Premier, a question about the Boston Consulting Group Consultancy commissioned by the Department of the Premier and Cabinet.

Leave granted.

The Hon. T.A. FRANKS: The Boston Consulting Group is a privately-owned global management consulting firm and adviser on business strategy. In 2009, the Department of the Premier and Cabinet engaged the Boston Group to provide services designed to, as they said, enhance strategy and policy development across the Public Service. This finished on 10 May last year.

I understand that the total cost of this one-year contract was close to $1 million—$497,750—and has been described as a project to improve the Public Service's understanding of the most important long-term global trends affecting the state. Ten months after the consultancy we have yet to hear exactly what the Boston group has been working on, apart from value responses offered by the Premier's departmental heads in the recent Budget and Finance Committee, and that the work in fact, we have been told, involves advice on megatrends in some five or so portfolios.

However, what we do know is that in New South Wales in the past week press reports claim that the Boston Consulting Group have provided that Keneally Labor government a similarly secret paper which recommended cuts to the education budget in that state in the order of the closure of 100 public schools and the loss of 7,500 teachers across that state. I understand from the media coverage that the report was critical of the trend to decrease class sizes. Perhaps the megatrend they liked was to downsize those classes rather than upsize them.

Given the edicts to find and execute $750 million in extra Public Service savings in the budget announced by the Rann government after its re-election, and its warnings to the public sector to limit their wage claims to 2.5 per cent—

The PRESIDENT: The Hon. Ms Franks should get to the question.

The Hon. T.A. FRANKS: I am almost there, sir; there is one more line—or face further cuts to the 1,600 cuts to jobs over the next three years announced, my questions are:

1. Will the minister confirm that this half a million consultancy work was not simply a previous iteration of the razor gang work done for last year's financial budget?

2. If it was not, can the minister now confirm that it was also not an exercise in navel-gazing on the part of the Premier while this government has then gone on to execute $750 million of cuts across the Public Service, which have seen the loss of 450 jobs already, including family day-care workers, police, ambulance, fire and emergency services workers?

3. In order to assure the South Australian public that the consultancy was neither a razor gang nor a naval-gazing exercise, when will the full report be released?

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:57): I will refer those questions to the Premier in another place and bring back a response, but can there be a clearer demonstration of

the Liberal/Greens alliance we see in this place daily? The Hon. Tammy Franks now seems to be getting her questions from the Hon. Mr Lucas and his committee.

I do not know the details of the Boston group or what role they may have played as a consultancy, but I certainly know that the Hon. Mr Lucas has spent a lot of time in the Budget and Finance Committee talking about every single consultancy that he ever came across, and I am sure he has been into excruciating detail with the one which the Hon. Ms Franks refers to in her question.

If having senior public servants from the Department of the Premier and Cabinet in front of the committee was not enough, one wonders why members of this place bother to support that committee and continue to establish it if they believe the committee serves no purpose and they still have to come in here and ask the questions they have already asked in the committee. What is the point of having the committee? If it is not there to answer questions, it is clearly there to provide fodder for them to develop more questions for question time. They cannot get all their questions from *The Advertiser*, the ABC or from country papers, so now they have to start trawling through Budget and Finance Committee transcripts as well.

I do not know exactly the role this group played, but what I can say, of course, is that we know the budget is under strain. South Australia, like other jurisdictions around the country, is facing a significant strain on revenue because of economic conditions, and in the wake of the global financial crisis our projected GST revenue flowing from the commonwealth has fallen. It is very clear that the government has faced a tough budget environment, as indeed have other states. The government has responded to that responsibly by putting in place the mechanism, with the Sustainable Budget Commission, to examine thoroughly items of government expenditure and to come up with a budget accordingly which will set the state on a sustainable footing into the future.

There are lots of different things that make up the budget items of expenditure. It is certainly the oldest parlour game in the world to pick out certain things and say, 'Well, if you drop this, you could pay for that,' and move the budget around as if it is some sort of jigsaw puzzle. However, in reality, we know that the government needs to make decisions about priorities and what it is we are able to fund. Every day, we have honourable members of this place coming in here and complaining about some expenditure or another being cut from some particular service, or you have complaints.

Here we have, in the very same question, where the honourable member is raising Public Service numbers—even though she mischaracterises completely the increases this government has made with our investment in police and other essential services—at the same time, the member is bemoaning the fact that expenditure has occurred on this particular consultancy, as this week she was lamenting about expenditure on a drug treatment facility.

Honourable members come in here every day and complain about what the government is spending its money on and then complain when the government says that we are going to make some savings. So, on the one hand, they are saying, 'What are you spending all this money for?' and then, when we say that we are going to make savings, they say, 'How outrageous that you're going to cut the budget.' Well, which is it, Mr President? Do they want to blow the budget and to run a billion dollar deficit and plunge the state into financial crises and lose the AAA rating? Is that what they want, or do they want the government to institute a massive razor gang and cut government expenditure to ribbons?

Which is it? They cannot do both at the same time. Let's hear from honourable members opposite exactly what items of government expenditure they think need to be cut. If they believe that the government is making the wrong decisions about the budget, let's hear what they have to say; let's hear what their plan is. It is like so many issues they talk about in here, such as the forests, where they have continually talked about what the government has said in relation to investigating the forward sale of forests, but at no time have they put up an alternative as to how they see a sustainable future for that industry.

I will refer those questions to the Premier in relation to this particular consultancy, but this government is committed to a sustainable budget. We want a strong state economy, a strong fiscal position, including the AAA rating, and that will be the focus of our budget and the priorities we make.

The PRESIDENT: The Hon. Ms Franks has a supplementary deriving from the answer.

BOSTON CONSULTING GROUP

The Hon. T.A. FRANKS (15:03): It became clear that the minister has not been privy to this document. Does the minister have any concerns that a half-million dollar consultancy would produce a document that he has not actually seen the results of?

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (15:04): I said no such thing.

WORKCOVER CORPORATION

The Hon. R.I. LUCAS (15:04): I seek leave to make an explanation prior to directing a question to the Leader of the Government on the subject of WorkCover.

Leave granted.

The Hon. R.I. LUCAS: In response to an earlier question, the minister outlined the training program Certificate IV in Personal Injury Management (Claims Management) for personal injury claims management for which WorkCover has recently paid for 25 employees, including 15 employees from Employers Mutual. On Tuesday, during debate on the training skills bill, I asked the minister: where does a consumer or student go to find out who is an accredited provider to provide a particular course? The minister said:

> ...it would certainly be the view of the government that they should satisfy themselves that the provider they are being educated or trained by is properly accredited and registered. The principal way in which they can do that easily is through the National Training System—

which is a government endorsed and sponsored website. I then went on and asked: if a particular provider says it is providing a particular qualification and it is not accredited under the NTIS, is that an offence? The minister said that, under section 43 of the current act, it would be an offence and that the penalties for those offences would increase under clause 19 of the proposed amending act.

I followed the minister's advice and went to the government endorsed website, NTIS, to look at the Certificate IV in Personal Injury Management (Claims Management) course. What that shows is that Deakin Prime is not an accredited provider of the certificate IV claims management course. In fact, in the minister's own words when you go to this government endorsed website, it indicates that there is only currently one accredited provider of that particular course in South Australia, and that provider is not Deakin Prime.

The information provided to me is that WorkCover has paid up to $100,000 for these 25 people to undertake the Certificate IV in Personal Injury Management (Claims Management) qualification from this interstate registered training organisation. My questions are:

1. Can the minister confirm exactly how much WorkCover has paid for this course?

2. Given that 15 of those 25 employees were employed by EML, and given that EML has been paid up to $44 million in claims management fees in the last year, why did WorkCover pay for the cost of the training of EML employees, not EML?

3. Given the minister's statements in this house on Tuesday of this week, how do the minister and WorkCover justify spending up to $100,000 on a training course from an unaccredited provider of that course?

4. Does this mean that the 25 employees who were working hard for up to a six to nine-month period for that qualification from this unaccredited provider will, at the end of that period, not have a qualification recognised by the NTIS and the registered training authorities in South Australia and interstate?

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (15:07): I thank the Hon. Mr Lucas for his question. I am not aware of the details of funding for the participants in this course. I did say that WorkCover had facilitated the introduction of the certificate, so whether it has indeed paid for all the participants going, I do not know, but I can find out that information.

I am advised that the certificate IV is a nationally recognised qualification based on agreed national industry standards. The company undertaking the delivery of the training has been involved in doing it in New South Wales and Victoria and is involved in the pilot program in South Australia. Whether or not this provider (or whoever it is under whose auspices the training is

offered) appeared on the NTIS website I do not know, but I am happy to find out and bring back the information to the honourable member.

RIVERLAND SUSTAINABLE FUTURES FUND

The Hon. R.P. WORTLEY (15:08): I seek leave to make a brief explanation before asking the Minister for Regional Development a question about the Riverland Sustainable Futures Fund.

Leave granted.

The Hon. R.P. WORTLEY: The Riverland is a remarkable region of South Australia, boasting huge agricultural and viticultural production and a wonderful tourism experience. As we have heard in this chamber recently, the State Government has committed significant funding to the region over the next four years through the Riverland Sustainable Futures Fund. Can the minister advise the chamber of developments in relation to this fund?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (15:09): I am very pleased with the member's interest in this and, indeed, there is a great deal to be said about the Riverland Sustainable Futures Fund. I had the pleasure of going to the Riverland last week to meet with businesses, industry and community—

The Hon. J.S.L. Dawkins: You didn't tell the local member you were coming, they tell me.

The Hon. G.E. GAGO: That is absolute nonsense. That is absolutely outrageous nonsense. We discussed with the local member our presence in the Riverland and, in fact, I met with him the week before I went on the visit and discussed my visit with him at that meeting prior to my going to the Riverland. It is absolutely outrageous. Not only is the opposition wrong, not only is the information its members bring into this chamber completely wrong and misleading but what is more, in terms of my visiting the region, this is one of my electorates. These are my constituents. For members of this upper house, every South Australian is one of our constituents, and I have every right to visit any constituent at any time. Not only is it my right: it is my responsibility.

So, I was visiting industry and community representatives, including the RDA board and members of the Riverland Futures Taskforce. While the focus of my first visit as Minister for Regional Development was to hear first-hand from businesses and industry groups about their potential projects, I was also interested to find out what was occurring to maximise unique opportunities for the region arising from the commonwealth's commitment, as well as, obviously, our $20 million Riverland Sustainable Futures Fund.

On 11 March, a couple of weeks ago, we saw the release of the commonwealth government's guidelines for applications to its more than $1 billion Regional Development Australia. Local government and non-government organisations, as well as consortiums which include businesses, can seek funding for projects which are strategically targeted to support one or more of the commonwealth priorities of skilling Australia and lifting productivity, maximising the opportunity of broadband and sustaining our environment, social inclusion, and water and energy efficiency. In addition, these projects must fit with the strategic aims set out in the regional roadmaps created by the local Regional Development Australia organisations.

The first round for this competitive fund has now opened, and it closes in May, so there is no time to waste. This will be the biggest test to date for our RDAs. I cannot stress enough the importance of strategic whole-of-region thinking in applications so that we maximise the effect of any grants which are received. The RDA guidelines are clear that partner funding will be expected for all project grants except where extenuating circumstances prevent co-funding. Obviously, alignment of projects to give the best bang for buck is essential to make the most of this once-in-a-lifetime opportunity.

During my visit last week I made it clear that the solutions to the issue facing the Riverland were not ones which the government would dream up; rather, they would come from the community which lives and breathes the Riverland, because that community is obviously best placed to know how to grow and develop the region. It is important that the Riverland community maximises the Riverland Sustainable Futures Fund to drive new development that can deliver long-term and sustainable economic and social benefits, and we need to carefully target our inputs.

I am very pleased today to be able to announce a grant of up to $10,500 towards the cost of conducting a small feijoa trial crop. This will come out of the Riverland Sustainable Futures Fund. G.M. Arnold and Son Pty Ltd is a long-standing family horticultural business operation, which

some years ago began diversifying its traditional citrus holdings into more niche market varieties, and I am advised it has done so very successfully.

I am advised that feijoa—some people might know them as pineapple guavas, as they are more commonly known—are drought tolerant but obviously require water for market production. They could be an ideal crop for the Riverland, with the resulting knowledge shared with potential growers. I am also advised that commercial production of this new crop would be aimed at the domestic market, and Arnolds have already received interest from the Melbourne market.

This commitment to diversify in the agricultural sector is yet another example of using the funds to strengthen this important part of the Riverland's economy. In addition to the AgriExchange project, which I have spoken about before, I was able to announce a grant of $20,475 to the South Australian Fresh Fruit Growers Association and the SA Dried Tree Fruit Association for the New Variety Apricot Commercialisation Project. This funding will enable the preparation of a comprehensive business and marketing plan for fresh and dried apricots.

I am looking forward to seeing more applications coming in so that we can help the Riverland to help itself to prosper. I encourage organisations with an interest in developing opportunity in the Riverland to take a step to make an application. Both the Riverland/Murraylands RDA and DTED can provide information to applicants. The guidelines and the application form are accessible from the Riverland Futures Taskforce website, the RDA/Murraylands/Riverland website or the DTED website.

COMMUNITY HOSPITAL FUNDING

The Hon. R.L. BROKENSHIRE (15:16): I seek leave to make a brief explanation before asking the Minister for Regional Development a question about the Keith, Moonta and Ardrossan community hospitals.

Leave granted.

The Hon. R.L. BROKENSHIRE: I have with me today a flow chart from the state government's website on regional impact assessment. The diagram shows that, if a cabinet submission has an impact on regions, then, if it is minor the impact should appear as a regional impact statement subheading to the cabinet submission and, if it is a significant impact, a regional impact report must be prepared. A 'significant impact' is defined as follows:

> A change that will or is likely to affect an entire rural or regional community or groups of individuals living in regions or regional communities in the short term or over time.

The residents of Keith tell me that at least 55 jobs are at risk from what is now the town's major employer, namely, the Keith & District Hospital. The residents identify the Rann government's razor-gang cuts to country community hospitals as the reason for those job losses.

Without a hospital, they say, no emergency services in the area will be available, 18 aged-care residents will lose their home and families will leave the district. My questions therefore to the minister are:

1. What level of regional impact assessment has occurred for the Keith community?
2. When was it initiated?
3. Is that process completed?
4. Will the minister table the assessment at the earliest possible opportunity?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (15:17): I thank the honourable member for his most important questions. The honourable member would know that those matters relating to the health policy areas are the responsibility of the health minister, and I am happy to refer those questions to the appropriate minister in another place and bring back a response.

I did want to take this opportunity to point out that, in fact, in the 2010 state budget there were a number of initiatives for regional South Australia, particularly in relation to health. Some quite large infrastructure funds were made available for our hospital developments; one in particular was to the Berri Hospital. These were public hospitals; so these are public hospital services that are available to all members of the public.

One was the Berri Hospital, and two other regional hospitals also received considerable infrastructure funding in that particular budget. Also in that budget there was $5.9 million to provide additional cancer services in country areas, which is obviously a very important service. There are also those services that indirectly relate to people's health, such as, for instance, the $5 million towards the Port Augusta Sports Hub. All those sorts of—

The Hon. R.L. BROKENSHIRE: Point of order, Mr President. I am sure the people of Berri appreciate their hospital having some money spent on it, but relevance is the point of order. I asked what the minister did to try to stop the Keith Hospital from being closed.

The PRESIDENT: The honourable minister can choose to answer the question the way that she sees fit.

The Hon. G.E. GAGO: Thank you, Mr President. As I have said to the honourable member, his questions pertaining to particular health services are the responsibility of the health minister. I am more than happy to refer those to the Minister for Health in another place and to bring back a response. However, I was pointing out that health services are not just about our hospitals. Regional health services are not just about hospitals.

To be able to maintain people's health, safety and wellbeing, which contribute to people's overall health, is a very important challenge and commitment of this government. I then proceeded to outline a large number of initiatives, particularly financial commitments that this government has made to regional South Australia, to improve the health of those members of the public living within regional areas.

ANSWERS TO QUESTIONS

DISABILITY, UNMET NEEDS

In reply to the **Hon. K.L. VINCENT** (10 February 2011).

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises): The Minister for Disability has advised that:

1. The December 2010 unmet needs data will be published shortly. It is worth noting that this information is not instantly available on January 1. It takes several weeks to compile, with appropriate due diligence to follow.

No meaningful comparison of this data with other states and territories is possible. Only some jurisdictions record some form of unmet need data, but not in any consistent fashion.

2. The Disability Blueprint is being prepared by the Social Inclusion Unit and is expected to be completed in July 2011.

The Blueprint will set a future direction for the way people with a disability, their families and carers are supported in South Australia.

The Rann Government believes South Australians with a disability should be included in all aspects of community life. We know there are many barriers in our community that can make life more difficult for people with disability. Removing these barriers will be the focus of this work.

In developing the Blueprint, current laws, programs, policies and services across government will be looked at to understand where opportunities for improvement exist. This is being done through extensive consultation with the South Australian community.

This will help the Social Inclusion Unit recommend changes to the Government where they are needed most and deliver a plan that activates the citizenship rights of people with disability, their families and carers.

3. Since coming into office, the Rann Government has increased State disability funding by 93 percent, from $135.4 million into 2002-03 to $261.3 million in 2009-10.

In that time, the number of clients to receive support has grown by over 5,000 to 20,145. As part of the 2010-11 State Budget, $70.9 million over 4 years was committed to Disability SA.

The Government is also delivering its Disability related promises made for the 2010 election. This includes:

- $1 million recurring to support students with a disability in the independent school sector;

- $1 million recurring for increases assessments and access to Autism Services;
- $17.5 million extra for disability equipment;
- Six new special education units; and
- $3.5 million a year to assist South Australians with a disability to leave hospital.

This compares to the Liberal's promise of an uncosted Autism Specific Super School and $2.5 million a year for unmet need.

STATE HERITAGE

In reply to the **Hon. J.M.A. LENSINK** (24 November 2010).

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises): The Minister for Environment and Conservation has advised that:

1. As part of the restructure of government agencies following the state election, a number of options for the location of heritage functions within government agencies were proposed. Following consideration of these options, the Minister for Environment and Conservation determined that the optimal outcome for Heritage Policy in South Australia was to retain all heritage functions within the Department of Environment and Natural Resources.

NATURAL RESOURCES MANAGEMENT (REVIEW) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 February 2011.)

The Hon. J.M.A. LENSINK (15:23): I rise to make some remarks in relation to this piece of legislation. I first and foremost would like to thank the officers and the minister for providing me with a briefing, which was a joint briefing with myself and Mitch Williams, which took place late last year. Honourable members would be aware that the natural resources management legislation is a topic of great interest to many Liberal members, given that we have got more country members than anybody else, and a number of our members have primary industry backgrounds as the work that they did before being elected parliament.

The passage of legislation in 2004 was carried by the member for Davenport, who was our environment spokesperson at the time. It was quite a controversial piece of legislation, and in many ways it still is. The Natural Resources Management Act came into being in 2004. It was an amalgamation of 27 soil boards; 27 pest, animal and plant boards; and eight water catchment boards.

At the time, we expressed considerable concern that the government structure, as proposed, would lead to a burgeoning bureaucracy, which can be characterised in the vernacular language as lots of chiefs but not many Indians. The integration was proclaimed as the primary aim of that legislation. It was an integration of what had been voluntary boards, but it did not take place as the government had predicted—lots of nice rhetoric about how wonderful the system would be.

We expressed concerns at the time that the act created a clunky structure with multiple reporting processes, which has unfortunately come to pass as predicted. We acknowledge that this particular bill will in some ways address some of those concerns, but many still remain. Through the changes to those old structures, a number of local volunteer groups have been disenfranchised through well-known organisations such as Landcare, water catchment programs and the good work of many local councils which have been caught up in the new LAP process. We agree that some of the reporting processes are convoluted and will benefit from being streamlined as they are amended by this bill.

One of the other issues which also received a lot of attention at the time in 2004 was the powers being given to authorised officers. This has been the subject of recent media discussion, especially in the context of water prescription processes in the Adelaide Hills. Unfortunately, not all of the commentators in the media availed themselves of the enormous amount of work, which our party put into the 2004 act. Our then spokesperson, as I mentioned, the Hon. Ian Evans, had hundreds of amendments and the debate took many, many hours to get through.

Some of the issues that he raised for amendment of this legislation included the chains of relationships; repealed acts; encouragement and support of primary production; concerns with the

objects, principles and functions; ministers' powers; provision of information; direction and function changes; the council and board membership; LGA representatives; time limits for reporting; appointments; annual reports; board regions; regions/boundaries; notifications; residency; appeals; owner agreements; financial assistance; warrants; penalties; land values; council cost adjustment; Auditor-General; fines, penalties and damages; regulations; right to silence; and continuing offences.

This particular legislation arises from a statutory review as required by section 234 of the act. The review was undertaken by the former department of water, land and biodiversity conservation, which was required to undertake that by 30 June 2007. That particular report was tabled in about August or September 2007.

Some 208 issues were raised in the report, some of which were considered outside the scope of the review, and over 160 recommendations were made. I have taken the time to go through the report from start to finish and line up the amendments in this bill before us today, and most of those recommendations arise from the report. One which does not is the right to remain silent, which I would like to indicate now is just one of the many amendments that I have instructed parliamentary counsel to draft. More on those later.

The report stated that the review fulfils section 234 of the NRM Act which it describes, 'To seek minor amendments in the existing legislation and outline opportunities to better integrate the section on land, water and the management of animals and plants.' However, my reading of section 234 does not find a narrow term of reference for the review which in subsection (1) refers to a review of the operation of this act, which is pretty broad. Subsection (2) provides that submissions must be sought from all stakeholders, including state agencies, federal agencies, local government and 'relevant industry, environment and community organisations' which, again, is pretty broad.

Further, the scope section of the 2007 report outlines the order in which stakeholders were consulted, and I quote:

> Preliminary internal consultation with the NRM council, regional NRM boards and other agencies which then formed the basis for public consultation.

There is no reference in this bill before us to inconsistencies in levies which, I understand, had been anticipated by this review. Therefore, I believe that comments made by my colleagues on this bill in the other place—that the bill serves the bureaucracy in the first place—are entirely valid. In the section relating to authorised officers, the 2007 report states the following:

> Several powers of authorised officers were identified as not allowing enough scope to enable them to carry out their functions fully. Issues have been raised about the effectiveness of both the educative approach and subsequent compliance where this approach has been ineffective. Several comments were received on the powers of authorised officers and include that some clarification of these powers was required, that limited powers of arrest be given to state authorised officers, that state authorised officers have powers to lock off, lock up or block irrigation infrastructure to cease illegal irrigation; that guidelines be developed and that a program is in place for appropriate skills, knowledge and procedures for a common compliance officer role.

That will be an interesting exercise indeed. I understand that, under the revised structure, DEH and the Department of Water, Land and Biodiversity Conservation have been amalgamated. Now that DENR and parts of the old Department of Water, Land and Biodiversity Conservation are within NRM, there will be a fairly expansive further review of this legislation.

I also note that the government has defended the current scope of authorised officers' powers by stating that they are no different from those which exist in other acts, particularly (as is often quoted) section 91 of the Environment Protection Act. I would be inclined to agree but only if they were ever used as a last resort. Striking the right balance depends on a healthy and open attitude from those who have the powers and a level of respect for landowners. It also requires a minister who is prepared to rein in his department if officers become heady with power and heavy-handed. Sadly, that is not the case in South Australia at this time.

My Assembly colleagues' contributions of 9 February provide plenty of examples where heavy-handed actions are taking place to the point of hampering landowners' business and getting close to sending one family broke. They also spoke about changes to available sources of funding which has changed significantly from the two old programs established by the Howard government of the Natural Heritage Trust and the national action plan for water and then to Caring for our Country.

One of the ongoing issues which remains a major shortfall in the regime is that board members are government appointments rather than being reflective of their communities. That is something which deserves further consideration, although I do note that the government has made the eminently sensible decision of appointing a former colleague, the Hon. Caroline Schaefer, as the chair of the Northern and Yorke Natural Resources Management Board. She will be an excellent presiding officer in that role. In general, there is a major disconnection between NRM decisions and local communities, and I think the classic example of that is the current situation with water allocation in the Mount Lofty Ranges.

I have mentioned that there is considerable disparity between the various levies within and between regions. I hope that is something to be further examined in the upcoming review. There are complications for local government, which I think was conned into agreeing to collect the levy. They now live to regret that decision because they have no control over the levy rate, yet it is published or part of what they collect from ratepayers.

As to governance issues, NRM boards, as I mentioned, are appointed by the state government under state statute, yet their funding is derived largely from local government through the federal government's programs. It is a structure whereby the accountability, funding and statutes are unaligned and therefore accountability is incongruous. So, there are many issues still to be resolved. I have received formal advice from two organisations, one being SAFF, and I will read its comments, as follows:

- The definition of 'intensive farming'...should not be left to the decision of the individual NRM Boards. From SAFFs experience, some NRM officers do not have good agricultural/farming knowledge to be able to define what a standard farming practice is, or what may be a temporary farming practice due to drought, etc. The same farming practice may be described as intensive in one region and not in another, and may result in some farmers being restricted and others not.
- The definition of 'residential premises'...should be defined in the NRM Act. The 'residential premises' understanding in urban areas is different to rural areas where private driveways can be 100s of metres long.
- The SAFF does not support clause 5 where the Minister is now able to delegate powers in regard to NRM levies and funds. If this occurs there will be less scrutiny of levy rises.
- SAFF strongly supports the proposed changes in clauses 6(1), 6(2), 7, 10(1), 10(2), 11(1) & (2) which will allow the Council and Boards to run more efficiently.

That relates to appointments. The comments continue:

- While SAFF supports the changes of NRM group terms at clause 13 from 3 years to 4 years, SAFF only supports members being able to serve up to eight consecutive years as there is a need to promote change-over and input of new ideas.
- In respect to clauses 17 and 18 which discusses regional NRM plans and water allocation plans, it is critical that economic and social impacts are assessed when new levies are raised, such as the potential water levy with the adoption of the Western Mount Lofty Ranges Water Allocation Plan.
- Whilst SAFF supports changes proposed at clause 22(1) to bring South Australia into line with the National Water Initiative, it needs to be recognised that some Water Allocation Plans may need to be reviewed sooner if the current science is incomplete, if trigger points are reached or if there is a significant increase in some water affecting activities, eg plantation forestry. A review period of 10 years is way too long and unrealistic.
- SAFF does not support clause 39 whereby water conservation measures will be established by Gazette notice rather than by regulation. Regulation provides the opportunity for debate, which is highly important for issues such as Environmental Protection Zones in the South-East.

We then have a submission from the South Australian Chamber of Mines and Energy, which believes that all water users for productive activities, including stock, should be liable to pay the NRM water levy. It also would like the funding model for NRM boards to be reviewed to address significant inequities in income generation between regions. All regions are expected to achieve improved environmental outcomes through the NRM legislation, state NRM plan and the State Strategic Plan. It states:

> It is our view that some regions (for example, SA Arid Lands) are not appropriately nor sustainably funded to achieve government and regional objectives as a result of small population, rather than being based on resource management requirements. A more equitable distribution of funds is necessary.

I note that those issues are not contained in this bill. They also, in a letter they wrote to the minister in August last year, stated:

Although the resources industry is a legitimate land and water user, and makes a significant contribution to the objective of environmental legislation,...(SACOME) is not recognised as a peak body in the NRM Act nor has specific entitlement as other peak bodies within either Acts—

the other act it refers to is the Native Vegetation Act—

to nominate persons for selection by the Minister for membership on either the NVC or NRM Council...As an industry with invested interest in sustainable use and management of natural resources and obligations through various state legislation, the resources industry is a key stakeholder in the strategic management of natural resources in South Australia.

Going back to the specific issues of water rights, they say:

With the implementation of unbundling water rights across prescribed water areas over the period 2010-2014, the question arises whether section 127 (water affecting activities) will be applicable given the new Water Resource Works Approval...

They have expressed some further concerns that these measures may increase the bureaucracy of the application process for water usage. We would not be favourable to this additional regulatory burden.

I have already spoken to parliamentary counsel about some of the specific concerns we hold in relation to the provisions that are outlined in the bill, and that has resulted in parliamentary counsel drafting some 27 amendments on our behalf, which I will have placed on the file tomorrow, I hope. We will have a whole range of things, which I am sure the minister will deem outside the scope of this legislation, which relate to powers of authorised officers. So, I think we will have quite a number of amendments in this debate, and they may well take considerable time.

I will quickly outline what our concerns are. We are concerned about the Upper South-East Drainage Scheme being subject to prescription because we believe it is premature to allocate any new water prior to finalising existing water issues. Many members would be familiar with the USE scheme, with the drainage, which has considerably changed the outlook of the South-East, with significant volumes of water flowing out to sea.

I mentioned that SAFF opposed the definition of 'intensive farming' being placed in the act, and we agree that we will oppose that. The definition of 'curtilage' was placed in this act in 2004, and it is the only act, I understand, that defines 'residential premises'. The government is seeking to amend that so that it would return to the common law definition. SAFF opposes the common law definition because it believes that it revolves around the metropolitan definition, whereas curtilage on rural properties is often very different.

The delegation of minister's powers under chapter 5 is something that SAFF mentioned in its contribution to us. We agree that the government's amendments give too many powers to the department and that the powers should remain with the minister. I understand from the debate in the House of Assembly that the minister undertook to listen to the debate in the Legislative Council. In any case, we have amendments that will oppose that particular measure.

In relation to terms of the NRM regional council and boards and NRM groups, in the original debate in 2004, we amended successfully that those terms should be three years, and the government is seeking to amend that back up to four years. We have had a similar argument in relation to local government. I think the NRM system is finding it hard to get people to stand for those positions because four years is a long time for someone to commit to being a member of the board. I understand that they are able to stagger their terms, under the existing provisions of the legislation.

I will go back to the things we support; I have so far talked about the things we oppose. In relation to the casual vacancies on the NRM councils and boards and so forth, I think they are all sensible suggestions and enable the Governor, on advice from the minister, to fill casual vacancies of less than half of a full term without a full call for nominees. In relation to enabling the annual report of the NRM Council to be tabled separately from regional NRM boards, which is currently causing undue delay, we think that is a sensible approach. There is a requirement at the moment for groups to provide annual reports, which they already do through boards. That will be deleted, and we support that. As well as the minister being able to delegate powers, there are provisions to delegate the chief officer's powers, which we oppose.

Probably the most controversial aspect of this legislation is that it seeks to delete the self-incrimination provisions, which the government told us were based on crown law advice to do with EPA v Caltex New South Wales. However, members of the chamber may not be aware that clause 16 will delete section 72 of the act, which provides that a person can refuse to answer a

question or refuse to provide documentation on the ground of self-discrimination. We do not think that should disappear from any statute, so we will oppose that vigorously.

There are provisions that broaden regional NRM plans beyond the scope of just their operations, which we support. There is a provision which requires that the basis for a proposed water levy be set out in a regional NRM plan and retain the requirement that a social impact statement be included in a regional NRM plan only when a new levy is proposed or when an increase is proposed that exceeds CPI, which is currently required annually. We support that.

There are some amendments that relate to what the government told us was compliance with the National Water Initiative, in that water allocation plans will need to include information about what water assets exist to contribute to environmental priorities, not how much is actually required. A lot of our members felt that this was one of the flaws in the draft Murray-Darling Basin guide that was released in the last couple of years. Indeed, the argument was: why would you set how much water is required for the environment in a water allocation plan, with the potential to ignore the social and economic issues? I think that was largely why the Murray-Darling plan received so much criticism.

Another set of clauses removes the need for regional boards to prepare concept statements for plans and water allocation plans, which apparently take some time to prepare but have limited benefit. The boards will still be required to prepare draft plans which seek community input, and the board can then amend the draft plan following consultation and prior to forwarding it to the minister. We support those provisions. There is a clause which states that the relevant Aboriginal people will be one of the groups who need to be formally consulted, which we support.

There is a requirement for review and amendment of NRM plans, which SAFF referred to, which will be increased from five to 10 years to comply with the National Water Initiative, which requires certainty over a 10-year cycle. We were told in our briefing that water plans can still be reviewed earlier on an as-needs basis. SAFF described the 10-year review period as being way too long and unrealistic. However, I would like some reassurance from the government as to how often they believe each region may need to review its plan.

The next amendment reduces the requirement that a copy of proposed amendments to NRM plans is required to be published in newspapers to a summary. In our briefing, we were told that some amendments to NRM plans can run to 50 pages, and I understand that it would be wise to reduce the amount of information they are obliged to publish. While I understand the sense of that, I think that summaries can be used to omit information, so we will recommend that it be an executive summary. We will also require that the full amendments are published on the department's website, with a link in the advertisement.

The next amendment changes the reference point in the financial year for increases in the levy over CPI from 30 September to 30 June. In our briefing, we were advised that this will speed up consultation by three months and enable councils to publish the rate, rather than wait another three months for the setting of the NRM levy, and we support that.

In regard to rating of land outside council areas: this changes the requirement that rateable land be subject to a levy, giving the Crown discretion. Only one levy may be applied against multiple pieces of rateable land and only one levy may be applied against a farming property. I understand that this amendment would make the NRM Act consistent with the Local Government Act. I will seek clarification from the government as to the impact of this on pastoral leaseholders. Parliamentary counsel's advice was that aggregating the rating of farm properties in out-of-council areas would led to a discount in most instances, but I would like a formal confirmation to that effect.

There is a clause that provides that water taken for roadworks will be excluded from the calculation of water taken. In our briefing, the government said that this specific clause had been at the request of the Local Government Association. My understanding is that the act currently allows that water taken for stock, domestic and firefighting purposes is excluded. I think the minister had agreed to look at this during the debate in the House of Assembly. We have had examples of negative impact on local landholders' bores with the Northern Expressway, as well as on the Yorke Peninsula, so I do not see why—given that roadworks are not an essential human need—they should receive the same status. I would like an explanation from the government as to why it thinks that is an appropriate thing to do; and if I am not happy with the explanation we will oppose that provision.

There are some provisions that relate to drought or over-allocation penalties for the illegal taking of water, and parliamentary counsel's advice was that the act is currently unclear about how

a penalty might be declared. So this clause is a clarification, by specifically stating that a person who has acted in contravention of a notice is a penalty that can be declared, and we support that provision.

The bill also seeks to extend the definition of degradation of land from environmental aspects to include productive capacity; that is, soil loss alone can be taken to constitute land degradation. The opposition is opposed to that on the ground that it does not believe that NRM officers are qualified to determine it.

Section 127 of the NRM Act, to which SACOME makes specific reference, outlines the rules regarding water usage in prescribed areas. The amendment, through this bill, adds the following:

> The relevant authority may—
>
> (a) require that separate applications be made;
>
> (b) issue separate water management authorisations or permits,
>
> with respect to each distinct activity or item of infrastructure within the ambit…

The government told us that this was a clarification that related to multiple bores, which applies mostly to mining. SACOME is quite clear that it is concerned that this will increase the bureaucracy of the application process for water usage, and we will oppose this provision.

There are also increased penalties for taking water from a prescribed area without authorisation, erection of a structure to capture water without authorisation, or taking water in contravention of an NRM plan in unprescribed areas. The current penalty for that, if you are a body corporate, is $70,000, plus the prescribed rate of $25 per kilolitre. The bill will increase that to $2.2 million. For a natural person, the current penalty is $35,000, plus the prescribed rate of $25 per kilolitre. This bill will change that to $700,000.

The government says that these new provisions will bring penalties into line with New South Wales' laws and penalties under the Environment Protection Act. It was considered by the review in 2007 and, in fact, was rejected, pending a review of penalties. I will be opposing those provisions, because I think that they vastly increase the penalties for those breaches. I think that to compare people who may be monitored by the NRM Act with the Environment Protection Act is not right. More often than not, either the bodies corporate or the natural persons are farmers, and trying to compare them with corporations which may breach aspects of the Environment Protection Act I think is unfair.

Clause 32 of the bill clarifies permit provisions of section 135 of the NRM Act, and we support that. Clause 33 includes capping as a remedy for well rehabilitation, which we support. Clauses 34, 36 and 37 of the bill clarify that transfers of water licences for dams must match the conditions on the licence, and the penalties introduced for not so doing of $50,000 for a body corporate and $25,000 for a natural person we support.

Clause 35 of the bill clarifies that carryover provisions are legal. We support that. Clause 38 is a drafting error, so we support that. Clause 39 of the bill is to provide for water conservation measures to be introduced by gazettal rather than by regulation, as the government says, consistent with SA Water provisions. As I mentioned, SAFF opposes these provisions, as does the Liberal Party, because we believe that this will allow the minister new powers to make law without any parliamentary oversight or accountability.

Clauses 40 to 44 relate to pest species, plants and animals and so forth, and no increase in penalties is proposed for those particular matters. With those remarks, I indicate that we are largely in support of this legislation. We are disappointed that the government did not actually seek to broaden it to include issues which are really causing a lot of difficulties in an operational sense, particularly for landholders. I am not sure of the total number of amendments I table will ultimately be, but it will be quite considerable. I think that this debate may take some time, but I look forward to it and I commend the debate to the house.

Debate adjourned on motion of Hon. D.W. Ridgway.

TERRORISM (SURFACE TRANSPORT SECURITY) BILL

Adjourned debate on second reading (resumed on motion).

The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:58): I stand on behalf of the opposition to speak in support of the Terrorism (Surface Transport Security) Bill 2011. The threat of

terrorism is ongoing, and Australia needs to remain vigilant to the potential risks of terrorist attacks. Strategies must be put in place not only to deter terrorist attacks but also, certainly, to make sure that the population is kept as safe as possible if we have the unfortunate incident of an attack here in South Australia.

Following a COAG agreement on surface transport security, we are now implementing South Australia's part of this agreement. It is my understanding that all other states will have their own legislation—some have passed it in those jurisdictions and some are yet to pass it. As we would all expect, mass transport is a prime target for terrorists and, sadly, we have seen some mass transport targeted over the years.

Only a couple of nights ago I saw a documentary—or it may have been, perhaps, *Foreign Correspondent* on Tuesday night—talking about the Lockerbie bombing of the Pan American flight some 25 or 22 years ago. So, terrorist attacks on mass transit lines have been around for a very long time.

While often people think about capital cities as these particular areas, I am reminded of my own home district, the townships of Bordertown and the township of Keith, although it is not home for me but it is in the same district. For a long time, strategies have been put in place to deal with disasters, more so than terrorist attacks.

Members would be aware that the Adelaide to Melbourne railway line runs through those towns, as well as the Adelaide to Melbourne highway and, often the same path is used by Adelaide to Melbourne aircraft. I know a lot of planning was done around a disaster, an unfortunate set of circumstances, where maybe a bus has a collision with a passenger train and there are multiple fatalities. Those sorts of targets are what this bill is looking to address.

The bill requires certain transport operators to implement counterterrorism plans. My understanding from reading the contributions from the minister in the other place is that, at the discretion of the minister, an operator will be identified as at risk of an attack due to the size, location, iconic status or quantity of passengers. I will be asking a couple of questions when we get to the committee stage in relation to places such as Bordertown and Keith that have major highways. I know that there are plenty of places that have major highways, major rail corridors, as well as being under the flight paths between our capital cities.

The bill will clarify 'security identifies surface transport operations' (SISTO), and they may encompass places, activities or systems. An example that has been given to me is for a football game at AAMI, a crowded shopping centre, or a public function put on by the Adelaide City Council. I forewarn the minister's advisers that when we get to the committee stage of the bill I am very keen to pursue answers to some questions about the new proposed development at the Adelaide Oval, given the number of people who will be using public transport in getting to and from that particular venue and exactly how the preparation of plans will impact on that particular venue.

I understand a number of security plans are already in existence, as required by the contractual agreements with state government—I think it is with existing metropolitan public transport providers—and the safety and regulation division within DTEI is responsible for ensuring that those transport operators are meeting those contractual arrangements. While it says the officers within DTEI are responsible for ensuring they meet those contractual arrangements, I would be keen to hear what the penalties are for not meeting those contractual arrangements.

The opposition has been satisfied. We have contacted the stakeholders, and most of them, we understand, support this bill. We still seek clarification from the minister on the level of assistance that DTEI may provide to smaller operators if they are identified as having one of these SISTOs to assist in the preparation of the plan. Minister Conlon was not particularly clear in his answer to the shadow minister's question in the other place.

With those few comments, the opposition does not want to prolong the debate. We have always been happy to support the government when it certainly has kept the community safe. We also appreciate that a lot of the information in relation to terrorism is kept secret from the public because the nature of the information may make it a greater target. I look forward to having some questions answered in the committee stage of the bill and indicate the opposition is happy to support the second reading of the debate.

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (16:04): I understand there are no other

members wishing to contribute on this bill. I thank the Hon. Mr Ridgway for his contribution, his indication of support, and wish to proceed with the committee stage forthwith.

Bill read a second time.

In committee.

Clause 1.

The Hon. D.W. RIDGWAY: I think it is an opportune time to ask just two or three questions. I understand that it is probably unlikely that the minister can provide me with details of particular towns but, given that I mentioned Bordertown and Keith in my second reading contribution, are the sort of circumstances that I have identified, where you have a town on a major interstate highway, a major interstate railway (in fact, in Bordertown, the highway crosses the train line) and, of course, on a flight path, likely to be areas of interest when it comes to developing plans? If so, who actually develops the plan?

The Hon. B.V. FINNIGAN: The government is not in a position to advise on whether any particular area or facility would be covered or not because, obviously, that is not the sort of information that we would wish—I don't think anyone would wish—to be in the public realm in the sense that we do not want to identify what we see as the most likely targets. All I can do in that regard really is repeat the definition in the act and the honourable leader would have to make his own judgement about whether he thinks certain places would be covered or not. In relation to the second point the honourable member raised, I am advised that it would be the local government authority in that instance.

The Hon. D.W. RIDGWAY: So, if you have multiple transport operators operating in different modes in an area, it is local government that will prepare that plan rather than the individual operators?

The Hon. B.V. FINNIGAN: That is my advice, yes.

The Hon. J.S.L. DAWKINS: If I can just follow on from that, in the scenario raised by the Hon. Mr Ridgway, will the minister advise: if we are in an area outside of council boundaries, who becomes responsible for that? It is not a laughing matter; it is a serious question.

The Hon. B.V. FINNIGAN: I am advised that it would be whoever the owner of the transport operation is in that particular instance.

The Hon. D.W. RIDGWAY: I was going to ask this question last, but I will ask it now. Given that we have on the table a proposal for the redevelopment of Adelaide Oval and we will clearly have an interaction between buses (Torrens Transit and probably one of the other operators), trams (certainly will be involved) and also the metropolitan rail service—so you have private operators and government-run trains—who will be responsible for, say, the river precinct and the Adelaide Oval? Who is responsible for the development of the plans for that area?

The Hon. B.V. FINNIGAN: I am advised that, in that instance, it would be the individual transport operators. The bill is concerned about the intersection of people and transport, not a venue per se, like the oval. So, it would be the operators of those transport services.

The Hon. D.W. RIDGWAY: In that example of transport operators, what mechanism has been put in place to ensure that all the plans are complementary and that you are not just having one operator saying, 'We're going to do X,' and another operator saying, 'We are going to do Y'? What process and mechanism is in place to make sure that those plans are consistent and complementary to each other and not in conflict?

The Hon. B.V. FINNIGAN: I am advised that clause 6 deals with the counterterrorism plans and subclause (6) talks about the regulations that may impose standards, and that would include things like training exercises, in which case there would be cooperation between different providers to ensure that they mesh. Indeed, that is the sort of thing that has happened in the past. I also point out that the minister is able to request copies of the counterterrorism plan for any particular operator. If the minister wanted to be satisfied, where there were different operators in a particular area, that those plans were complementary, he or she could request copies.

The Hon. D.W. RIDGWAY: I am interested in an answer from the minister in relation to where the transport provider's jurisdiction finishes. When you are on a bus or a train, you are clearly in the care and control of that operator. I will use Adelaide Oval and football as an example. I assume we will have a similar arrangement as exists now at AAMI Stadium, where you can

purchase a footy ticket that includes your bus ticket to the football at AAMI and back again. I suspect that, if Adelaide Oval proceeds, then football will be played in the city, so you will be able to catch the train here as well. If you buy a ticket that has a public transport component and a football component, does it mean that the plan must encompass a venue like Adelaide Oval, the precinct between Adelaide Oval and the train station, and then, of course, the train operator's plan.

The Hon. B.V. FINNIGAN: I am advised that an order can cover a place, activity or system. It would be envisaged that were there to be a particular threat at a particular location (based on intelligence received or what have you), an order could be made which, while it could be related to transport, could cover a particular precinct and the movement in and out of there on transport.

The Hon. D.W. RIDGWAY: Clearly, we will have different modes of transport and different operators and, as the minister explained, that will be up to each operator. However, we are going to have a portion of the city that passengers will have to move across. If that area is to be identified as a place or an activity, is the local council the responsible authority to develop the plan? In the Adelaide Oval case, is it Stadium Management Authority, or, during the winter, football, and in summer, cricket, or is it the state government because, clearly, the government is going to have a big financial stake in both that and Riverside?

The Hon. B.V. FINNIGAN: I am advised that any of those organisations could be encompassed by the declaration—that would be a matter for the minister. It would generally be unlikely that the sporting organisation would necessarily be part of a declaration, but that would depend on the circumstances. Certainly, the relevant council would be expected to have a role, but again it depends on the circumstances and the declaration made.

The Hon. D.W. RIDGWAY: In a slightly different place, in this city we have seen the government introduce for public consultation a bill on liquor licensing and the provision of four monitored, patrolled and well-organised taxi ranks to take young people home from the city at 4am. Are taxi ranks, where you may have several hundred people congregating waiting for a taxi, likely to be places subject to a terrorism plan?

The Hon. B.V. FINNIGAN: I am advised again that the government is not in a position to indicate whether any particular areas are likely or not likely to be included, but certainly a taxi rank could be the sort of area about which a declaration could be made, based on an assessment of the threat.

The Hon. D.W. RIDGWAY: If it was, would that be the responsibility of local government (it would have to be, I assume), given that you have a range of different taxi operators operating from a rank?

The Hon. B.V. FINNIGAN: Again, I am advised that that would depend on the terms of the declaration, but in that instance it would most likely be the local government authority and the operators of the taxi companies.

The Hon. D.W. RIDGWAY: I note that clause 6(1) of the bill talks about a counterterrorism plan and provides:

> (1) The operator of a security identified surface transport operation must prepare a counter terrorism plan for the transport operation in accordance with this section.
>
> Maximum penalty: $50,000.

I pose a question about the existing major metropolitan public transport providers, who I understand may have some contractual arrangements to provide these sort of terrorism plans. What penalties are imposed upon those providers if they do not provide those particular plans?

The Hon. B.V. FINNIGAN: I am advised that, under current contractual arrangements, if a contract were breached that would be a contract matter, which would be determined by litigation if required, if a party decided to sue for breach of the contract. Certainly, in drafting the bill care has been taken to take into account the contractual arrangements already in place, so the work that has already been done in the past in relation to having plans prepared is not required to be done all over again, or the two requirements do not conflict. It is intended that they would work hand in hand, but if a particular company were not currently meeting their contractual obligations that would be a contractual matter.

The Hon. D.W. RIDGWAY: My final question relates to future planning in relation to transport and the fact that these plans will need to be drawn up. Does the department, when

looking at either extensions to passenger transport networks or road networks, take into consideration the risk of terrorism and the movement of people in and out of places when that planning work is done?

The Hon. B.V. FINNIGAN: I am advised yes.

Clause passed.

Remaining clauses (2 to 14) and title passed.

Bill reported without amendment.

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (16:21): I move:

That this bill be now read a third time.

Bill read a third time and passed.

STATUTES AMENDMENT (PERSONAL PROPERTY SECURITIES) BILL

Adjourned debate on second reading.

(Continued from 22 March 2011.)

The Hon. R.P. WORTLEY (16:22): I rise to discuss the Statutes Amendment (Personal Property Securities) Bill. This bill is part of a national harmonisation process that springs from the Council of Australian Governments' focus on boosting productivity through competition and business regulation reform. Indeed, the Personal Property Securities (or PPS) Scheme is one of the priority items on COAG's business regulation reform agenda. As a statement by COAG makes clear, the drive to reduce business costs, build public confidence in markets and boost economic efficiency through greater competition is critical to the national reform agenda.

These reforms can help set up the nation for decades to come. The Productivity Commission estimated in 2007 that the potential benefits of a broad regulatory and competition agenda could increase GDP by 2 per cent (or $21 billion) over time. In October 2008, South Australia agreed to a national partnership to deliver a seamless national economy. Simply put, the bill before us today proposes amendments to a number of state laws as a result of the enactment of the commonwealth Personal Property Securities Act 2009.

'Personal property', as presently defined, does not include land, buildings or fixtures that form part of the land; it comprises tangible items, such as vehicles, crops and equipment and intangibles, such as intellectual property or shares. The PPS Act defines 'personal property' to encompass a licence capable of transfer. It provides for a declaration by a state or territory that a species of statutory right is not personal property as far as the act is concerned. As an aside, there is a question mark over whether fixtures will be included in the definition down the track. This is currently under consideration by the commonwealth, states and territories.

In light of the agreement on the national partnership, South Australia has introduced referral legislation to allow the commonwealth to establish a national personal property securities scheme. Under this scheme, there will be one set of laws and a single, nationally accessible register. The PPS Act will take the place of around 70 pieces of legislation which have thus far regulated personal property securities, clearly increasing ease of use and efficiency for registrants to a considerable degree.

A single online register, available 24 hours a day, will replace some 40 individual paper-based and electronic registers throughout the states and territories. Once the scheme has commenced, the state registers held pursuant to the Goods Securities Act 1986, the Bills of Sale Act 1886, the Co-operatives Act 1976, the Liens on Fruit Act 1923 and the Stock Mortgages and Wool Liens Act 1924 will cease to operate in terms of registering personal property securities.

The information they contain will then be relocated to a national register which, it is envisaged, will commence operation in October 2011. As my colleague the Minister for Industrial Relations has indicated, this bill will facilitate the establishment of a national register by amending state acts to provide for closure of state registers of security interests, allow data on the registers to be migrated to the national register, repeal provisions in state acts that are inconsistent with the PPS Act, and repeal acts once the national system is fully functional and the state register and registry functions are no longer required.

Petroleum, mining, fishing and aquaculture licences are to be excluded from the PPS scheme. Because these licences are covered by particular regimes related to those industries, it is more suitable that they remain on state registers. Arrangements are in train to provide for bills of sale related to fishing, aquaculture and water licences, and irrigation rights to be registered on the fishing, aquaculture and water registers. These should be in place by the time the PPS register goes live later this year. However, out of abundant caution, scope exists within the draft legislation to enable transitional regulations to be made so that, should circumstances arise, bills of sale over excluded licences can be retained on the bills of sale registers until they are transferred to relevant state registers.

There are some other exclusions from the PPS scheme, and they are gas and electricity services. This is because they are currently subject to COAG national energy market reforms. The PPS register will incorporate all other registered interest. Following consultation with stakeholders, including of course the relevant departments, the National Parks and Wildlife Act 1972 will be amended to make absolutely clear that certain permits and licences are not capable of transfer. Consequently, as far as the PPS Act is concerned, they will not fall into the category of personal property. These amendments are congruent with consequential amendments made by the other states and territories.

Finally, the bill proposes to amend the Criminal Assets Confiscation Act 2005 to make crystal clear the operation of state laws regarding the operation of the PPS scheme in relation to the forfeiture and disposal of criminal assets and proceeds. The result of these amendments is a streamlined, consistent and simpler scheme for persons and entities involved in personal property transactions Australia-wide. The benefits in terms of accessibility and productivity are clear. I commend the bill to members.

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (16:28): I believe there are no more contributions, so I thank honourable members who have made a contribution to this debate and indicated support. One amendment is on file at this stage from the Hon. Mr Wade; at this point the government is not opposing it, but we will seek further advice from the Department for Water before the next sitting week. I thank honourable members for their contributions.

Bill read a second time.

In committee.

Clause 1.

The Hon. S.G. WADE: I would like to take the opportunity to speak very briefly to provide the context for concerns that have emerged about how this bill might relate to water licences. Just to briefly outline those concerns, the Personal Property Securities Act 2009 in the commonwealth currently does not apply—I stress, does not apply—to right, entitlement or authority in relation to the controlled use or flow of water. This means that the act does not apply to water licences.

However, the Personal Property Securities (Commonwealth Powers) Act 2009, the referral act, does include a subsection that would refer the personal property securities matters in relation to transferable rights to the commonwealth under section 6(4). That subsection has not come into operation; however, if it is ever brought into operation the referral will be achieved by the amendment to the commonwealth Personal Property Securities Act.

The definition of water right in the referral act contemplates the states being able to exclude statutory rights, which means that the referral would not apply in relation to excluded rights, entitlements and authorities. So, the amendment I filed would have the effect of inserting a new section into the Natural Resources Management Act 2004 that declares that a water management authorisation is not a personal property right for the purposes of the Personal Property Securities Act 2009 of the commonwealth.

This issue emerged particularly in the latter stages of the House of Assembly debate, and I thank the Attorney-General and member for Bragg for teasing out the issue. I welcome the commitment from the minister to seek further advice, because the opposition is certainly aware that water matters are very complex, and we would not want our amendment to have unintended consequences. So, on behalf of the opposition I thank the minister for his undertaking to seek further advice so that when the council considers that advice in the committee stage we can be sure that there are no unintended consequences.

Clause passed.

Clauses 2 to 50 passed.

Progress reported; committee to sit again.

SUMMARY OFFENCES (PRESCRIBED MOTOR VEHICLES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 22 March 2011.)

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (16:33): I would like to thank honourable members for their contributions to this debate. The Hon. Ms Bressington has indicated that she supports the bill on condition of her filed amendments. The government will oppose those amendments for reasons I will outline in committee. The Hon. Mr Wade has filed a number of amendments which seek to import into the bill numerous features from the existing clamping and impounding legislation. For reasons which I will make clear in the committee stage, those amendments are strongly opposed.

I wish to address a point raised by the Hon. Mr Wade with respect to announcements linking the vehicles that are the subject of this bill and fatalities. My short response is that the statistics referred to at the time of those announcements were understood to be correct, and I am advised that they still are. As the honourable member notes, inquiries were made last year about the number of fatalities attributed to monkey bikes.

A search was conducted with the Department for Transport, Energy and Infrastructure crash data base, which revealed that there have been a number of serious injuries associated with the use of monkey bikes, but the search did not point to any fatalities that could be directly linked to their use. However, it should be noted that a search of this type is difficult as monkey bikes can be given a number of different descriptions by the reporting officer. It depends on the way in which the information is originally recorded into the system as to what a search will reveal. For example, if the officer refers to a 'motor bike' rather than a 'monkey bike', the statistic will not be recorded as a fatality attributable to a monkey bike.

As a result of the Hon. Mr Wade raising further inquiries in the second reading stage, further inquiries have been made through the Coroner's Office. Those inquiries suggest that there has been at least one fatality associated with monkey bikes. In 2006 a male died while riding a monkey bike in a car park at Parafield.

Notwithstanding, I respectfully suggest to the honourable member that drawing a distinction between fatalities and serious injuries is, in the context of debating whether the action taken by this government to get these vehicles off the road, disingenuous. They are a nuisance, and it is well recognised that they can present a danger to riders and others. Again, I thank members for their contributions on this bill and indications of support. I look forward to dealing with the amendments in committee.

Bill read a second time.

In committee.

Clauses 1 to 4 passed.

Clause 5.

The Hon. A. BRESSINGTON: I move:

Page 3, after line 8 [clause 5, inserted section 55]—After subsection (3) insert:

(3a) It is a defence to a charge of an offence against subsection (2) to prove that—

(a) the vehicle was not driven or left standing on the road by the defendant; and

(b) the defendant did not consent to the vehicle being driven, or left standing, in contravention of this section; and

(c) the defendant had taken reasonable steps to ensure that any person lawfully entitled to use the vehicle was aware that the defendant did not consent to the vehicle being driven, or left standing, in contravention of this section.

As I detailed in my second reading contribution, this amendment makes clear that, where an owner has consented to a vehicle being ridden but specifically has stated that they do not consent to it being ridden on a road or a road-related area, they will have a defence available to them if the rider

fails to comply, which I do not believe the general defence provided in subsection (4) currently provides.

The Hon. B.V. FINNIGAN: The government opposes this amendment. The amendment seeks to afford an additional defence to an owner of a prescribed motor vehicle prosecuted under subsection (2) for their vehicle being driven or found standing on a road. It is important to recognise that such owners already enjoy a limited defence against the subsection (2) prosecution via subsection (4). The subsection (4) defence exculpates a defendant/owner from criminal liability where, as a result of some unlawful act, their vehicle was not in their possession or control at the time it was driven or left standing on the road.

That limited defence has been deliberately calibrated to protect owners against criminal sanction arising as a consequence of an unlawful act but not in other circumstances. This distinction was deliberately drawn to reflect the government's desire that parents take seriously their responsibility to ensure that their children do not drive or leave standing on a road monkey bikes belonging to those parents.

If the amendment proposed by the Hon. Ms Bressington were agreed, the efficacy of the sanctions would, in our view, be fatally undermined. Any prosecution of an owner/parent could be avoided by the defendant/owner asserting to police that they did not consent to their vehicle being driven or left standing on a road and that those views had been made known to their children.

The Hon. S.G. WADE: For the assistance of the committee, I will indicate that the opposition does support the amendment. We believe the defence that the minister refers to would be enhanced by this clarification. We do not think it is appropriate that people who have taken reasonable steps should not be able to access a defence.

The Hon. M. PARNELL: The Greens will also be supporting this amendment unless the minister can assure us that this is not the same issue that the Law Society wrote to us all about, saying that they thought it should be included as an additional defence. My understanding from their submission is that this is the type of inclusion that they supported. If the minister has a response to say no, that I have got that wrong, then I will reconsider.

The Hon. J.A. DARLEY: I will be supporting this amendment.

The Hon. B.V. FINNIGAN: I advise that the Law Society did indicate they would support an amendment of this kind, but for the reasons outlined before, the government opposes the amendment. We believe that the defence available should be sufficient to make sure this bill is as effective as it can be. We do not want to make it very easy for people to absolve themselves of responsibility for the nuisance caused by a monkey bike.

Amendment carried.

The Hon. S.G. WADE: I move:

Page 3, lines 13 to 35 [clause 5, inserted section 55(5), (6) and (7)]—Delete inserted subsections (5), (6) and (7) and substitute:

(5) If a person has been charged with an offence against this section relating to a motor vehicle, a police officer may seize and retain the motor vehicle until proceedings relating to the offence are finalised.

(6) Subject to this section, if a person is convicted by a court of an offence against this section, the court must, on the application of the prosecution, order that the motor vehicle the subject of the offence is forfeited to the Crown.

(6a) A motor vehicle forfeited to the Crown under subsection (6) may be dealt with in accordance with section 20 of the *Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007* as if it had been forfeited by order of a court under that Act.

(6b) Notice of an application for an order under subsection (6) relating to a motor vehicle must be given to—

(a) if the prosecution is aware of any person (other than the defendant) who claims ownership of the motor vehicle—that person; and

(b) if the prosecution is aware that any other person is likely to suffer financial or physical hardship as a result of the making of an order under subsection (6)—that person; and

(c) each holder of a registered security interest in respect of the motor vehicle under the *Goods Securities Act 1986*.

(6c) A court hearing an application for an order under subsection (6) relating to a motor vehicle—

(a) must, if a person given notice of the application under subsection (6b) so requests, hear representations from the person in relation to the application; and

(b) may, at the request of any other person who is likely to be affected by the making of the order, hear representations from that person in relation to the application.

(6d) A court making an order under subsection (6) may make any consequential or ancillary order or direction that it considers necessary or expedient in the circumstances of the case.

(6e) A court may decline to make an order for forfeiture under subsection (6) if satisfied that—

(a) the making of the order would cause severe financial or physical hardship to a person; or

(b) the offence occurred without the knowledge or consent of any person who was an owner of the motor vehicle at the time of the offence; or

(c) the making of the order would significantly prejudice the rights of the credit provider; or

(d) the motor vehicle the subject of the application has, since the date of the offence, been sold to a genuine purchaser or otherwise disposed of to a person who did not, at the time of the sale or disposal, know or have reason to suspect that the motor vehicle might be the subject of proceedings under the section.

(6f) If—

(a) a court declines to make an order for forfeiture under subsection (6); and

(b) the court is satisfied that it would be reasonably practicable for the convicted person to instead perform community service,

the court must order the convicted person to perform not more than 240 hours of community service.

(6g) An order to perform community service under subsection (6f) must be dealt with and enforced as if it were a sentence of community service (and in any enforcement proceedings the court may exercise any power that it could exercise in relation to a sentence of community service).

The opposition, through this amendment, is simply trying to provide consistency between two pieces of legislation dealing with the misuse of vehicles, the first one being the Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007 and the Summary Offences (Prescribed Motor Vehicles) Amendment Bill 2010, the bill that is before this committee this afternoon. Our amendments replicate the hoon legislation forfeiture provisions on the basis that the confiscation process should be no tougher on monkey bike riders than we are placing on hoons. The government has set the standard. We ask that it be applied consistently.

The government proposal in the proposed subsections, section 55(5) and (6), is that if a person is to be or has been reported for, or charged with, or given an expiation notice in relation to an offence outlined in that proposed section, a police officer may seize the vehicle until proceedings relating to the offence are finalised. One way the proceedings may be finalised is through the payment of an expiation. If a person expiates or is found guilty of an offence, the vehicle is automatically forfeited to the Crown and may be dealt with under the disposal provisions of section 20 of the Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007. No appeal is available under this bill, even if the owner of the vehicle did not know about the offence or consent to it being used by the offender.

The opposition amendment would substitute the automatic forfeiture provisions contained in section 55, with the relevant hoon driving forfeiture and penalty provisions introduced by the government in February 2010 through the Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007. The amendment would allow police to give offenders the opportunity to expiate the offence and keep the vehicle. However, if the police want to pursue confiscation, they would need to charge the alleged offender and may temporarily confiscate the vehicle until the matter is finalised.

Once found guilty of an offence, there is still a presumption towards the forfeiture of the vehicle to the Crown upon application by the prosecutor, but the owner of the vehicle and the offender will have the right to appeal the forfeiture on a range of grounds, such as the owner being unaware of or not consenting to the events, the fact that another party may have a financial interest in the vehicle, or on the basis of financial or physical hardship.

The amendment also allows further penalty of up to 240 hours of community service to be imposed in lieu of the forfeiture of the vehicle. This provision is provided as an alternative additional penalty; for example, where the offender uses another person's vehicle. An owner of a prescribed motor vehicle who commits an offence may be fined up to $5,000 and have their vehicle forfeited, and a person who uses another person's vehicle would otherwise only be liable for up to a $5,000 penalty if this subsection was not included. We believe that there are good grounds for having similar provisions in this legislation as to what the government has put forward in the hoon legislation. I commend this amendment to the committee.

The Hon. B.V. FINNIGAN: I disagree with the Hon. Mr Wade that the government has set the standard in relation to this matter in our hoon legislation, because there is a very critical difference. Cars are a legal product. You can buy them legally, drive them legally on the road and have them insured and registered. We have a whole framework of laws that govern how we drive our vehicles because we recognise that cars are a legitimate and very necessary part of our life.

What we are talking about here are monkey bikes, so-called, which are not able to be ridden on a public road at all, and they are not able to be registered. So, it is not at all comparable, because we have these provisions in relation to the forfeiture, clamping and impounding of cars where somebody misuses a legal product that has a very extensive framework of laws built around it. You cannot compare that with what is essentially a product that is not able to be driven lawfully on a road at all and is not able to be registered. So, we see these amendments as substantially altering the existing measures.

Dealing with the seizure of and the subsequent dealings with a monkey bike, there are two principal changes. First, the amendments exclude a number of existing categories triggering South Australia Police's seizure powers. Under this amendment, only when a person is charged with an offence could a police officer seize and retain a motor vehicle until proceedings are finalised. The existing bill permits a police officer to seize and retain a motor vehicle where a person is to be or has been reported for an offence, has been arrested for an offence, has received an expiation notice in relation to an offence or is the subject of action under Part 2 of the Young Offenders Act 1993 in relation to an offence.

Second, the amendments import wholesale provisions taken from the clamping and impounding legislation of the Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007. Notably, under the proposed amendments, it is necessary for the prosecution to apply for an order that the vehicle in question be forfeited to the Crown. Notice of such an application must be given to a host or third parties, who must be given an audience at the hearing of the application should they so wish. Furthermore, the court has the discretion to deny the application on a host of bases, including severe financial or physical hardship or that the offence occurred without the knowledge or consent of any person who was an owner of the motor vehicle at the time of the offence.

In the government's view, it is inappropriate to seek to introduce into this bill provisions (framed to apply to registrable, insured and potentially financed vehicles) to apply to unregistrable monkey bikes unable to be lawfully driven on a public road. Furthermore, as the vast majority of offences are likely to be dealt with by way of expiation, removing that category as a trigger to SAPOL's powers of seizure will undermine the ability for the police to immediately remove the source of the dangerous and disruptive conduct—that is the monkey bike—from the roads.

For the sake of completeness, I note that the Attorney-General in another place made similar comments in respect of the opposition's then foreshadowed amendments. It is unfortunate that the opposition appears to have paid little heed. It follows for the reasons outlined above that the government strongly opposes these amendments.

This amendment very much threatens to undermine the entire basis of the bill, which is to get these things off our roads. There are people in the community in many parts of South Australia, particularly in the outer suburbs of Adelaide, who are being tormented by these things, and we want to put in place the measures that can easily get them off the roads, not treat them as if they are a lawful car the same as the car that you and I drive every day.

The Hon. S.G. WADE: I want to respond to the government's response in two respects. First, the minister keeps talking about monkey bikes as though this bill was about monkey bikes. This bill is called—

The CHAIR: Can either you or the minister explain to me what a monkey bike is?

The Hon. S.G. WADE: Yes, I can. The Chair probably understands it as a pocket rocket from the younger days. They are unregistered miniature motorcycles, which are typically about half the size of a standard road bike, powered by a 50cc petrol motor and capable of speeds in excess of 70. My understanding is that there have been significant disruptions in both the southern suburbs and the northern suburbs through the use of them.

The point I was hoping to make was that this bill is not the 'Summary Offences (Monkey Bikes) Amendment Bill 2010', it is the Summary Offences (Prescribed Motor Vehicles) Amendment Bill 2010. The government, under its original proposal, just by proclamation could have declared a whole range of vehicles as prescribed motor vehicles. I commend the government for picking up a suggestion from the Hon. Ann Bressington that a proclamation or regulation would be more appropriate, so that could be disallowable by this parliament.

However, it is quite conceivable that a whole range of motor vehicles will be prescribed under this legislation. Whether or not the monkey bikes are subject to a range of measures (I understand that they cannot be imported and they cannot be sold, etc.), they are certainly experiencing a crusade, if you like, and the opposition does not object to that.

The opposition is very aware that this legislation has not been drafted merely for monkey bikes or pocket rockets (as the President prefers to refer to them), it is to do with prescribed motor vehicles—and that could be anything. I should not say 'anything', but my understanding is that it could include in the future things like golf carts, mopeds, self-propelled elevating platforms, power-assisted pedal cycles—well, perhaps not that last one.

The point is that we just do not know how valuable the next prescribed motor vehicle will be. The fact that mopeds might not be worth pursuing for retrieval does not mean that the next prescribed media vehicle is not. We do not disagree with the government that monkey bikes are a curse that need to be taken off the roads, but this bill has more general application and, in anticipation of whatever may yet come, we want a bill that works not just for monkey bikes but for whatever else might be proclaimed.

The Hon. B.V. FINNIGAN: I welcome the honourable member going to visit people in the northern and southern suburbs, who have these things roaring around on their footpaths, through their parks and ripping up their neighbourhoods, and explain to them in the nicest diplomatic language that because 'monkey bike' is not in the title of the bill they are just going to have to wear it because the government might decide, in the future, to prescribe mopeds or gophers or spacecraft or something else. That is the most absurd argument I have heard. These things are a menace and the opposition is deliberately trying to frustrate the government doing something about it. I would like to see them justify and explain that to the people who are affected by them.

The Hon. S.G. WADE: I will be brief because there is a brief and simple answer. People will only be given the option of expiation by the decision of the police officer. If the police officer decides to charge them, they will be completely vulnerable to confiscation. This does not close the confiscation route, and we support the police having the power, through appropriate appealable processes, to confiscate assets.

The Hon. M. PARNELL: I turn again to the Law Society's submission on this question. It states that its principal concern with the provision of, for example, new subsection (5) as drafted, is that it is draconian. The Law Society's submission states:

> We consider that the power to seize and consequently retain should only be exercisable upon the institution of criminal proceedings.

That, in fact, is what the honourable member's amendment seeks to do. The current wording of new subsection (5) includes such concepts as 'if a person is to be reported'. I am not sure what that means. Is it simply the intention or a threat of a police officer that they have a present intention to report but they have not yet done it? In other words, the net is cast too wide. As currently drafted, if a person is to be reported, has been reported, or if they have been charged, that is covered by the honourable member's amendment.

Regarding expiation notices, I acknowledge what the minister is saying in that we are talking about vehicles that perhaps are inherently illegal, rather than something that is 'herently' legal. However, it seems to me that an expiation notice is a pretty thin basis on which to confiscate and retain property. You can imagine that if someone overstays a parking meter by a few minutes and leaves themselves liable to an expiation, we would be outraged if confiscation was a result of that. We are not talking about cars parked on the streets but about different types of vehicles.

The ultimate list we do not yet know because we have not seen it, but it seems that the Law Society submission, which I find attractive, is that the bar needs to be set a bit higher. If the police are going to charge someone then, yes, let them confiscate. The Law Society goes on to say, again using the word 'draconian', that there is no mechanism to challenge such a decision, which could be a misplaced decision on the part of a police officer. If there is no right to challenge it, there is no right for justice to be done.

I note that the honourable member's amendment incorporates the ability to go to an umpire and see whether the powers were properly exercised. This amendment is quite a lengthy one, and I note that the Hon. Ann Bressington has an amendment to the amendment, so I will reserve my judgment until I have heard the full debate on that. Certainly, in terms of these threshold questions of the trigger for confiscation and the rights of people to challenge those decisions, the Greens are supportive of those parts of the amendment.

The Hon. A. BRESSINGTON: I move to amend the Hon. Mr Wade's amendment as follows:

Page 3, lines 13 to 35 [clause 5, inserted section 55(5, (6) and (7)]—After inserted subsection (6f(a) insert:

(ab) the convicted person is an owner of the motor vehicle the subject of the offence; and

I support the Hon. Stephen Wade's amendment to create a more equitable process that is flexible to owners' circumstances and involvement in the commission of the offence when determining whether to forfeit a monkey bike. As I detailed in my second reading contribution, the government's bill, in its haste to forfeit these bikes, created a process in which monkey bikes are arbitrarily forfeited with no opportunity for the owner to intervene.

As I said, even before the amendment, that is even where the property had been stolen. I am one of those people out in the northern suburbs who have to put up with these things zipping past my front door. Although it is a nuisance, I also know of people who have bought these bikes for their young children to learn how to ride a motor bike on their property—not in the suburbs but on a property out yonder where they take the kids out to ride these bikes.

If one of these people was to have their bike stolen and illegally ridden on a road or on an area the minister will prescribe, that child's bike, which was a Christmas or birthday present, will be forfeited, confiscated and probably crushed. You are going to punish the people who are doing the right thing and have tried to do the right thing by their kids by buying one of these bikes in the first place to start them off on something small and reasonable in order to learn how to ride a bike.

They could easily be caught up in this net, and that is being lost in this debate about monkey bikes and their being a nuisance. Yes, when ridden in the suburbs, they are a nuisance, but we are not talking about that with forfeiture but about where an owner has not given permission for that bike to be ridden on the road, and where that monkey bike has probably been stolen and ridden without their knowledge.

There has to be a threshold. When people bought these bikes for their kids, they were not illegal. They did not buy them illegally. We have a crossover here where they have now been declared to be illegal, unregisterable, and all the rest of it, from where people were able to buy them quite legally. You could even buy them at the Brickworks Markets. A bit of leeway will not go astray.

I will explain why I am amending the Hon. Stephen Wade's amendment. I support his amendment, but I also support imposing a penalty of community service as a substitute penalty for forfeiting a monkey bike in cases where to do so would cause financial or physical hardship to the owner, where it would prejudice the rights of a credit provider or where the vehicle has been sold.

This is indeed appropriate where the owner is the defendant and, hence, would be subject to community service. However, I do not believe it to be appropriate where the defendant is the rider of the vehicle as distinct from the owner. The honourable member's amendments would mean that a rider of a motor vehicle who has already received a penalty for the criminal action

(potentially, a fine of up to $5,000) would then be subject to an additional penalty, not for a criminal act they have committed but instead solely due the financial status of the bike's owner, and this is clearly inappropriate.

The other situation in which a court can decline to forfeit a vehicle used in contravention of this section is where the bike was ridden without the owner's consent. Of course, an owner should not be penalised for an offence in which they played no part. However, in declining to forfeit the monkey bike for this reason, should the court impose community service on the rider? This is a question I have considered in some detail. Ultimately, I concluded that a penalty should not be imposed for conduct the defendant has not been found guilty of.

It must be remembered that, while riding a bike without the consent of the owner is indeed an offence, this is not the offence of which a rider has been found guilty and for which they have received a penalty. Instead, they have been found guilty of riding a prescribed bike on a road or road-related area and have been penalised accordingly. If they are to be penalised for riding the bike without consent, it should be after prosecution and a guilty verdict for offending against section 86A of the Criminal Law Consolidation Act 1935. It is for these reasons I move this amendment to restrict the imposition of community service to the owner of a monkey bike where they are also the defendant in proceedings.

The Hon. J.M. GAZZOLA: I seek some clarification from the mover of the amendment. The Hon. Ann Bressington mentioned that some parents bought their children one of these monkey bikes, which are up to 50cc, I think. What speeds do these monkey bikes get up to and what age are the children?

The Hon. A. BRESSINGTON: Well, the speeds the bike can go, I believe, is up to about 70 km/h but, certainly when a little kid is learning to ride a motorbike, they are not going at 70 km/h and they are learning to ride a bike. I believe it is safer to teach a kid to ride a 50cc motorbike than it is to start them off on a motocross bike or off-road bike. These little bikes are quite manageable for kids around the age of 10 or 11 to ride on private property, on farm property, to learn how to manage a bike.

The Hon. B.V. FINNIGAN: These monkey bikes are not the sorts of harmless things you can have in the back shed. You can use them for a legitimate purpose, but we are just trying to make sure that you do not take them out on the road. The commonwealth has issued a permanent ban on these monkey bikes being sold. If you are interested, Mr Chairman, there is some significant detail as to what constitutes a monkey bike or a mini bike or pocket bike. There are various ways of describing them, but it is very clear to those who are buying them and using them what is being talked about when we talk of monkey bikes.

The commonwealth has issued, under the Competition and Consumer Act 2010, a permanent ban on monkey bikes with unsafe design features. I am advised that the South Australian Office of Consumer and Business Affairs has also had restrictions in place for some time. It is not to suggest that all we are worried about here is when people misuse these vehicles. They are not really seen as a legitimate vehicle that we want being purchased and used at all because, inevitably, they are used principally for an illegal purpose, and that is what this bill seeks to correct, and it seeks to give police the powers to deal with these and to make sure they are taken off the road.

Yet again, we see here that the Liberal Party do not have confidence in the police; they do not trust the police. Rather than simply being honest and admitting that and saying that they oppose the bill, they simply try to make the bill unworkable and to take away from the police the power they require to make sure that monkey bikes are taken off the road.

These are a menace in our community, and yet again the Liberal Party is showing that it is more interested in what lawyers have to say than what the community have to say, and it is being absolutely soft on those who are hooning around the community on these things. As my friend the Hon. Mr Holloway says, I am sure if they started turning up in Burnside and other eastern suburbs of Adelaide, ripping up their rose gardens, we would find a very different attitude being presented by the honourable members opposite.

I look forward to drawing to the attention of citizens in the southern and northern suburbs that the Liberal Party does not care about them; it does not care about monkey bikes; it does not trust the police to deal with them and, as far as it is concerned, there is no problem that needs to be addressed, because the Law Society says there is not one. That is the message the Liberal Party is sending to the people of Adelaide.

The Hon. A. BRESSINGTON: I would like to remind the minister that the legislation he mentioned came into operation in 2010 and there were people who bought those bikes in good faith long before 2010. I believe there was a gentleman in the northern suburbs who was begging the government to make these bikes illegal about three and a half to four years ago, before too many people got sucked into buying them, and then the government realised that they were unsafe and banned them.

A number of people have bought these bikes legitimately for their children and, if the police want to go around all of the farms in South Australia and capture all the illegal use of motorbikes and cars by kids who are living on farms—where they learn to drive and ride these bikes—then by all means feel free, because it is not just monkey bikes that these kids are riding and practising on.

The Hon. S.G. WADE: I would like to reiterate to the minister that the Liberal Party is supporting this bill. All that we are trying to do is enhance it, and we are trying to enhance it on the basis of legislation which this government has put on the statute books. If that legislation was soft then this legislation is subject to his criticism in those terms.

If I could address the Hon. Anne Bressington's amendment, in the context of enhancing the bill I appreciate that these things are matters for judgement and the scenarios that you can construct for a sequence of events are complex. In the context of making that judgement we will not be supporting this particular amendment. As I understand it, and the honourable member may be able to correct my understanding, it is based on the premise that it is unfair to make a penalty available against a non-owner offender on the basis of the circumstances of a third party.

If a person commits an offence under section 55(1) driving their own prescribed motor vehicle, either their vehicle will be forfeited or they will be forced to perform community service. If a person commits the same offence driving another person's prescribed vehicle, the effect of the amendment would be to ensure that the person committing the offence would not be forced to undertake any community service, unlike the person driving their own vehicle.

Furthermore, if the court made a forfeiture order, the penalty would be inflicted on the owner, not the driver. Essentially it would allow, in our view, a double standard that allows a person using another person's vehicle to get off with not more than a $5,000 fine, whereas a person driving their own vehicle would be liable for the fine, plus either forfeiture or community service. The opposition thinks the risk of injustice is greater without a community service option, and we will not be supporting the amendment.

The Hon. M. PARNELL: For similar reasons to the Hon. Stephen Wade, I think it probably is more reasonable to have a provision that allows for the non-owner drivers to also be subject to community service orders, although I fully accept the honourable member's rationale for moving the amendment. Clearly, she does not have the numbers for that, which brings me back to the original amendment of the Hon. Stephen Wade. Having heard the debate so far, the Greens are not inclined to change our position, so we will be supporting the whole of the amendment.

The CHAIR: The question is that the Hon. Ms Bressington's amendment to the Hon. Mr Wade's amendment be agreed to.

Amendment to amendment negatived.

The committee divided on the amendment:

AYES (11)

Bressington, A.	Darley, J.A.	Dawkins, J.S.L.
Franks, T.A.	Lensink, J.M.A.	Lucas, R.I.
Parnell, M.	Ridgway, D.W.	Stephens, T.J.
Vincent, K.L.	Wade, S.G. (teller)	

NOES (8)

Brokenshire, R.L.	Finnigan, B.V. (teller)	Gago, G.E.
Gazzola, J.M.	Holloway, P.	Hood, D.G.E.
Hunter, I.K.	Zollo, C.	

PAIRS (2)

Lee, J.S. Wortley, R.P.

Majority of 3 for the ayes.

Amendment thus carried.

The Hon. S.G. WADE: I move:

Page 4, lines 1 to 3 [clause 5, inserted section 55(8)(c)]—Delete paragraph (c)

I regard this amendment as consequential; and, if any member does not regard it as consequential, I am happy to speak to it at length.

The Hon. B.V. FINNIGAN: This relates to the young offenders?

The Hon. S.G. WADE: Yes.

The Hon. B.V. FINNIGAN: This amendment seeks to omit from the ambit of the definition of 'finalised proceedings' offences dealt with under part 2 of the Young Offenders Act 1993 where the offender has admitted the commission of the offence.

As it is the government's expectation that a number of offences will be committed by children who are likely to be dealt with under the provisions of the Young Offenders Act 1993, and its removal from section 55(8) would impact on the Crown's ability to deal with vehicles in accordance with section 20 of the Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007, the amendment is opposed.

The CHAIR: Perhaps we will hear what some of the other members are doing. The honourable member has moved the amendment, hasn't he?

The Hon. S.G. WADE: My understanding of what happened was that I said that we regard this amendment as consequential. The minister has just indicated that he does not, so I was hoping to address my amendment to explain why I do believe it is consequential and would like it to be supported on that basis.

The reason I am seeking to delete subsection 8(c) is that the amendment that the committee has already supported (Wade 1, amendment No. 1) deletes section 55(5)(d) and section 55(6c), both of which relate to offences under part 2 of the Young Offenders Act.

I would stress to the minister (and I do not know whether he appreciates this) that part 2 of the Young Offenders Act deals with, shall we say, less formal processes, particularly formal and informal cautions. The opposition's view, reflected in our amendment (and, for that matter correlating with the hoon legislation), is that the police should charge a person with an offence in order to activate the forfeiture provisions, as the Hon. Mr Parnell indicated other stakeholders have recommended.

I stress that, in spite of the minister's earlier attack on me being the lackey of some externals, I actually have not mentioned that external body. The Hon. Mark Parnell might have to consider his conscience about whether he is a lackey of external stakeholders, but I have not brought them into this debate. For the reasons I have outlined, I do believe that this amendment is consequential, and I would urge members who supported me on amendment No. 1 support me on amendment No. 2.

The Hon. M. PARNELL: The Greens declare that we are not the lackey of the Law Society or anyone else (just to get that on the record), but we do support the amendments for the reasons that the honourable member gave, and we believe that they are properly classified as consequential.

The Hon. J.A. DARLEY: I will be supporting the opposition amendment.

Amendment carried; clause as amended passed.

Title passed.

Bill reported with amendment.

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (17:19): I move:

That this bill be now read a third time.

Bill read a third time and passed.

NATURAL RESOURCES MANAGEMENT (REVIEW) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

The Hon. J.S.L. DAWKINS (17:20): I rise to speak briefly on this bill and to support the remarks made earlier today by the Hon. Michelle Lensink, who is the shadow minister for the environment. She is also someone who, throughout the years I have known her—and that is, despite her tender years, a little while—has always demonstrated her passion for the environment and preserving the wonderful things that we have in this state.

I suppose that in relation to natural resource management I should put on the record that during the term of the previous government as a member of the Statutory Authorities Review Committee I served on an inquiry into the then animal and plant control boards and soil boards. The Hon. Carmel Zollo participated in that inquiry as a member of the committee at that time.

As a result of that inquiry, where we travelled around the state, the committee recommended that animal and plant boards and soil boards should be amalgamated and that there should be other consolidation with other land care groups that were scattered around the state of South Australia.

We all know that, once the current government came to power, while it responded to that report, it went considerably further and, as well as putting animal and plant and soil boards together, it brought catchment bodies into that as well. Some would say, I think, that maybe we travelled a bit too far too quickly, and that may well be why we have got some of the issues that we have today that need to be—

The Hon. R.L. Brokenshire interjecting:

The Hon. J.S.L. DAWKINS: Yes; thank you for your guidance. I think many people in country areas of South Australia would say that it would have been wiser to have hastened slowly with the moves that were being made to bring together natural resource management bodies. It is still my view that the area of water was put into the mix too soon. However, that is what we have. As I said, I commend my colleague the Deputy Leader of the Opposition for her remarks and support everything she said.

I would particularly like to refer to the role of local action planning groups. I am not sure to what extent members are aware of the work of these groups, but they rely very much on volunteer involvement in areas surrounding the length of the Murray River in South Australia and extending, I believe, into Lower Lakes region. They are well known in the Riverland and nearby places as LAP groups, and they are backed up in some cases by associations of volunteers who provide guidance to the limited number of paid officers that these LAP groups have attracted over the years. In my knowledge of working in the Riverland over a number of years, the LAP groups have done a wide variety of valuable work in a range of locations along the river corridor and close to it.

I understand that LAP groups have recently been informed that the security of their state government funding would be removed as of 30 June this year. Last week, I received communication from Mr Nick Bakkum, who is the chairman of the Renmark to the Border Local Action Planning Association and who passed on the views of his association members. You will be pleased to know that I am certainly not going to read the whole letter, Mr Acting President, although it is not a lengthy letter, but I do bring these points to the council:

We believe LAPs provide the following values:

- Proven capacity building—credible independent conduit between science, government agencies and the community. Committee members provide strong representation of local businesses, industry boards, landholders and the community.

He goes on to say that they are a reference point for community research. Further values include:

- Proven expansive volunteer network at a cost advantage with direct communication links within the community including local youth through school projects providing continuity of local knowledge.
- Education and awareness within the community of local environmental issues. Ability to reinvigorate and achieve on ground results of which the community takes ownership.

In conclusion, Mr Bakkum indicated:

> The recommendation from the Renmark to the Border Local Action Planning Association Committee is for a commitment to long term secure funding for LAPs and...to specify Sub Regional Community based funding.

I appreciate the indication that Mr Bakkum has brought to me to bring to this chamber. I have some questions relating to the LAP groups, and I would be grateful if the minister would bring back a response in summing up this bill.

My questions are: how many local action planning groups exist in South Australia and what individual areas do they cover; secondly, what level of funding is provided to the LAP groups, firstly, from the Department of Environment and Natural Resources and, secondly, through the relevant NRM board; and, thirdly, is it accurate that secured funding for LAP groups has not been extended beyond 30 June 2011?

I would appreciate it if the answers to those questions could be brought back in the summary of the second reading. With those words, I reiterate the Hon. Michelle Lensink's summary of the position of the Liberal Party towards this bill. There are a number of areas that we will consider significantly in the committee stage, but I am quite happy to support the second reading.

The Hon. R.L. BROKENSHIRE (17:30): I rise to speak to the second reading of this bill, which seeks to amend the Natural Resources Management Act as the result of a review process. Whilst convention has it that we support the second reading, I am supporting it with caveats. I say from the start that constituents I have spoken to were not aware that there had been a review. Here again we have a government saying that it has consulted broadly, yet the review has not touched on concerns raised by constituents.

I understand the opposition may also have amendments. If colleagues have not had a chance to see them, I advise the house that I have amendments that have been tabled earlier this week with respect to this bill. As I said, I understand the opposition has some, too. I think it is fair to say the review extends into this house where, clearly, there is desire to amend the act to improve its operations.

The feedback I have received from community organisations commonly in receipt of NRM funding to provide environmental programs is that they were not consulted in the review process. The information coming in via email virtually hour by hour at the moment from many constituents, representative volunteers and environmental program community-minded people is that they simply were not even aware of the review.

In fact, not one constituent from community organisations who has contacted me or whom we have contacted seemed to be aware of the review. I will put on record a couple of comments from anonymous constituents to illustrate their viewpoint and that, at least in part, leads to the questions I ask the government in relation to this bill. One constituent stated:

> We would love nothing more than to be allowed to have access to some funding for the day-to-day activities that we, as a non-government organisation, perform for the state government departments that are responsible for—

and I will not name the environmental sector. It further states:

> Furthermore, we have watched on several occasions the NRM fund other government departments that have misled the NRM by way of their abilities to perform the job that was funded. In addition to that, these government departments have received large amounts of funding by the NRM and employ people to perform a job they are not qualified to perform. This is not only extremely frustrating but is considered a slap in the face to organisations like ours that do have the ability to perform these tasks by professionals and provide an in-depth report to the NRM but are overlooked due to departmental friendships.

That quote is about a specific frustration and not a general comment about NRM staff and professionals, I believe, but it gives an indication of how some constituents in the community organisations feel about the way NRM policy and funding is applied. Another constituent states:

> We have not been consulted or asked to be involved in the review of the NRM Act and our local NRM committee has been extremely frustrated by previous consultation.

I want to touch on cost-shifting consultancies. I have been concerned for some time and have investigated for several years the extent to which NRM levies are being used as a cost-shift to pay public servants for work the state government should be paying out of general revenue.

As one constituent inferred in the quote I just read, this robs the community organisations of funds to do their work. A considerable amount of NRM levy funding is used to pay the former

department for water, land and biodiversity conservation, now the Department for Water, the Department for Environment and Heritage, other NRM boards, Planning SA, Rural Solutions SA, SARDI, PIRSA and some of the universities. This cost-shift runs into the millions.

I ask the minister to advise the house during committee or during the minister's summing up—and I put it on notice so that the minister has time to get this information for the house—the amount that has been paid out of NRM levy funds in the last three years to each of the bodies I have just mentioned. I also place on record that I was involved in the debate when the newly-formed government at the time introduced legislation to set up NRMs. I cannot recall that the intent or purpose of the NRM levies was to fund government departments. I also cannot recall that the intent of the natural resources management bill was to set up another big layer of bureaucracy, and certainly we are seeing that now.

Whilst I have respect and appreciate the good work that our volunteers—who may be on an honorarium-type funding arrangement—do on the boards (I have great respect for them and their genuine intent), I have lost nearly all of the support I had initially for the principles of NRM boards when it comes to delivering services efficiently and effectively. I am particularly concerned that the volunteer organisations, like the Local Action Planning (LAP), and volunteers are getting next to nothing from these levies, and that is why I have now moved amendments to ensure, if supported by my colleagues in this house, the other house will see some of that levy money going directly to the volunteer organisations.

From experience I believe that, when you give a volunteer organisation a dollar, you get back tenfold in value; in other words, for every dollar you give them, you get a benefit equivalent to $10. I am concerned and have spoken to the minister about this, and I acknowledge and congratulate the minister in saying that he understands my viewpoint and I believe that he may be having a close look at this in the forthcoming months. You do not have to drive through many country towns to see an office with an NRM logo, etc., and quite a lot of cars and people working there, but you ask the volunteer groups what they see in the way of delivery of services on ground and you will get some fairly frustrating responses from those volunteers.

The Hon. J.A. Darley interjecting:

The Hon. R.L. BROKENSHIRE: As my colleague says, at the same time that we are seeing these offices opened up, we are seeing primary industries offices closed, the classic example being Keith. I support the comments of my colleague the Hon. John Darley. I have raised the issue of the closing of PIRSA at Keith and the reduction of services—it is just wrong.

I finish by putting on the public record that the minister is looking at my concerns about the expenditure of NRM boards on office rental, cars and staff, and I will watch closely to see the minister's final response to the discussions we have had on this important issue. I do not believe that the purpose of the NRM levy, when levies were brought in, was to pay departments for work the Treasury should be paying them to do anyway. Family First values the work all those bodies do without a doubt, but they should not be paid out of an NRM levy that we believe was intended to pay community organisations and to do natural resource management work and pay for other environmental initiatives, such as buying water for river environments.

I will mention another cost shift briefly, that is, a matter I have written to the Auditor-General about, being some questionable allocations of money under the Save the River Murray levy. If you look at the Waterworks Act and what the relevant section says, and the press releases from the government about what the Save the River Murray levy was for, we find that money must be spent, to a large extent, on river health. What we are seeing, however, is a levy used to pay for bureaucracies, and I argue that we see it again with the NRM levy.

To sum up, I have a question on notice that will take some verifying by government. The point is that time and again we are seeing levies brought in for a stated purpose and then departments and Treasury deciding to use them to prop up budgets or other unrelated or spuriously related programs. I will turn shortly to the levy of rainfall. Levying is a sensitive subject at the moment because, first, on Tuesday, federal parliament passed a Queensland/Victoria flood/cyclone levy from 1 July 2011; and, secondly, we will potentially soon have a carbon price, that is a carbon tax, and an admitted broken federal Labor government election promise. So, levying is a sensitive issue at present, and I see this sensitivity wherever I travel around the community.

It was no surprise to me to see an article in the print media on a weekend not long ago, where it stated that South Australia is the highest taxed, charged, rated and levied state in the

nation. People are hurting and they have had enough of these levies, but they have particularly had enough of them when they do not see the delivery of what was is in the glossy press release and brochure put out after the levy was set up by the government.

As I said, levying is a sensitive issue at present, especially on questions of how long they will last and whether they will always be used for the stated purpose. In relation to that, I recently came out and said that it was time we got rid of the Save the River Murray levy, because nature saved the Murray. I know the minister for water in the last government and the Premier used to say that they could not make it rain. Well, we always knew that; nature has allowed it to rain.

We have a lot more work to do on the River Murray. It would be a good idea if the government got rid of the levy, because it has $6 million unspent in the bank, and it has raised about $140 million. To try to illustrate what it has done, it is claiming investment in projects which were completed prior to their coming to office or which had been done by this government prior to the introduction of the Save the River Murray Levy.

So far, the minister has said that he will not be removing the levy. However, I put on the public record that I believe that levy will be removed, and I forecast that it will be removed some time in 2013. What the government wants to do is rip a heap more money out of the community for a couple more years, and some time in 2013 the government will get rid of the Save the River Murray levy. That is my prediction. I think people are becoming wise to this. No wonder people are cynical when there are so many of these levies around that are not delivering.

As I have said, the levies need to be used for the stated purpose. One issue that comes up in the debate is the levying of rainfall that God or nature provides, depending on your world view. The minister and acting minister have made some interesting comments in relation to the metering of rainfall. Of course, you would only meter rainfall for two reasons: first, to know what is being extracted before it can run into watercourses; and, secondly, to levy it, that is, to put a charge on it.

They are the only two reasons I can think of why you would do it. The first reason is a reasonable one in the circumstances of large rainfall capture. In our view, the second is certainly not. I declare that my family are irrigators, and we have our meters on now. For significant irrigators, I see merit in meters on there, only to ensure that we know what sort of extraction is coming out, but that is merely to ensure that we have sustainability. However, I do not like the idea of a meter going on and then a licence and levy and a fee on top of that.

As I pointed out on the radio on 18 February, if for instance a farmer builds a new dairy or other shed infrastructure, under the act as it presently stands there is no incentive for him to capture and re-use rainfall. I have been saying since day one in this place that we have to get the right focus on our water security, and we have to encourage stormwater and rainfall harvesting wherever we can.

On 18 January 2011 (not that long ago), as acting minister, minister Gago appeared on the FIVEaa morning program. I will not go through everything that was said, but the exchange was of such concern to the Premier that he tweeted later in the day to reassure the masses that rainfall was not going to be metered. Yet here today we still do not know what the government's plans are, and the amendment I tabled this week makes it clear that no levy can be charged for that water collection.

I want to put on the record some extracts from the interview between minister Gago and the presenter, Leon Byner. Minister Gago said:

> But in terms of what's being proposed, if they have a licence allocation to use water from that dam then they will be required to put a meter there and the purpose of the meter will be to ensure that they comply with their allocation...

I do not have a problem with that. Moving along:

> The licensing will involve a charge for the use of water for commercial purposes, not for domestic and stock use though.

I skip ahead again to Leon Byner, who said:

> You see, there is a slight problem because there was a Twitter from the Premier today, which we received, which suggested that it was a nonsense that we were going to charge for water coming out of someone's dam ... clearly, it isn't a nonsense, that's exactly what is being proposed.

Minister Gago replied:

Two issues that you raise, first is the Twitter from our Premier, Mike Rann. I don't exactly know what the wording of that was but I understand he talked about the collection of water. What I'm talking about is water use. But also—

Leon Byner said, 'That's a semantic.' Minister Gago said:

You're absolutely right but the second and most important issue is the Twitter is a very brief comment, what I'm supplying is a much fuller explanation with more detail. So I believe what I'm talking about is consistent with what the Premier has said, it's just a more fuller explanation.

Skipping ahead again, Leon Byner asked:

Are you planning at any stage to put meters on people's rainwater tanks? Now, he said no. Will you say that same no?

Minister Gago replied:

The government has no real intention of metering or charging for water from either rainwater tanks or dams for the use of domestic or stock purposes.

I know that is the correct answer from the minister, but I want to reinforce 'domestic or stock purposes'. Subsequently, on 2 February, minister Caica spoke to the FIVEaa program. As I said, minister Gago was doing her best as acting minister while minister Caica was taking some well-earned leave, but here minister Caica is speaking about it again on FIVEaa. In part, the transcript states:

LEON BYNER: In the draft plan for rainwater all surface water is prescribed...what this means in effect...at any time a future or current government can meter all rainwater tanks...you've said you won't to do this.

MINISTER CAICA: That's right.

LEON BYNER: I take you at your word, but you may not always be the Minister for the Environment...if you say you won't do it why don't you amend the act to remove this provision so that all water isn't prescribed, which gives a government the power to do this?

MINISTER CAICA: Well, the act will allow for metering of tanks...500 kilolitres, which is a fairly large amount of water, will be collected...collected for commercial purposes. Under 500 kilolitres will get exemptions, but certainly we've got to know how much water falls, we've got to be able to meter and know how much is being used if we're to manage that resource effectively.

Having heard all that, let's go back to what the Premier said on Twitter on 18 January. Twitter statements are not throwaway lines or statements off the cuff: the Premier announced his cabinet reshuffle on Twitter. In the absence of a ministerial statement from the Premier, a clear statement of the government's policy from the very top is these days on Twitter. Here is what the Premier said:

Farmers know that we will not be charging them for their entitlements. Nor will we be charging people for the water in their rainwater tanks.

Again on Twitter, the Premier said:

And no, just in case anyone believed it, we won't be charging farmers for water that falls from the sky onto their land, into their dams!

So there is the Twitter message from the Premier saying he will not be charging farmers for water that falls from the sky onto their land into their dams, yet we are told by subsequent briefings that they will be. I want the Premier to categorically rule this out by supporting my amendment because the Premier is the head of the government. He said no; the department and the minister are saying yes. We need a ruling, and it needs to come from the Premier, from the top.

There is no ambiguity there. There is no talk of commercial purposes or exemptions. Acting minister Gago claimed, on the same day on Adelaide radio, that the Premier's tweet was ambiguous and that she was providing further detail. We have kept the Premier's tweet, we have it here right now; I have just read it out. Acting minister Gago claimed, on the same day on Adelaide radio, that the Premier's tweet was ambiguous and that she was providing further detail. Well, the Premier made 11 tweets to announce the cabinet reshuffle so that he could get around Twitter's 140-character limit per tweet. Minister Gago's own reshuffle was tweet three of 11, alongside minister Portolesi.

Here, on 18 January, Premier Rann made two tweets on this rainfall issue. So there is no ambiguity at all. It is clear. The Premier's tweets on Twitter are as clear as clear; there is no doubt about it. The statement is clear, and I am seeking to legislate the Premier's promise to the South Australian people through Twitter, as the official government voice these days.

This amendment does not stop the metering. I have said that for irrigators I see some merit in metering; I certainly do not see it for stock and domestic. Farmers and rural residents reliant on rainfall capture to provide for their home needs can rest assured that through this amendment (if passed) the rainfall will never be levied. I take it that may also remove any incentive to meter extractions, because they can never be levied. We have to get away from hitting people who have paid good dollars in rainfall areas where they can catch water from then having to pay a licence, and not only a licence but also an amount of money per megalitre that they extract.

Let me add this: the government failed on a clear statement that I sought to legislate once before. It made a 'Premier CPR' guarantee on the front page of *The Advertiser* in July 2008 regarding country health, saying that no country hospital would close and that country health services would improve. I sought to legislate that guarantee, and I am in the process of doing it again. But what happened at that time? The government never supported the legislation and look at what is happening now at Keith, Moonta and Ardrossan.

So the government blinked once: I am moving to stop it blinking again. I recall hearing elsewhere on radio a government representative saying that the government would be crazy to meter and levy rainfall. It was one of its own representatives who said that. Here is the chance to end the craziness and accept the amendment.

I now want to turn to cash inflows to NRM boards. Following on from that topic, and the question of whether revenue collections might need to be expanded to rainfall, let us look at what they have coming in at the moment. The Adelaide and Mount Lofty Ranges NRM has about $27 million, including $19 million from the regional NRM levy, $2 million of state funding and $2 million in federal funding.

The South Australian Murray-Darling Basin NRM has the next highest receipts, with $1.5 million in regional NRM and, naturally, with the Murray River in that area, by far the highest water levy receipts in the state of $5.7 million, $1.5 million of state funding, and almost $5 million in federal funding. Across all the NRM regions, some $37 million is collected via regional NRM levies and water levies, with state funding of some $10 million and federal funding of some $24 million.

I would like to finish on police powers. I will speak more on this in the committee stage, as I have amendments being tabled to curtail the powers the NRM authorised officers hold that exceed the powers available to South Australian police—I might add, not only to South Australian police but also to federal police. They exceed those powers in that they do not have the checks and balances that are imposed on our South Australian and federal police through their chain of command, and I will ask this council to support rectifying that.

I have further questions on notice for the minister. In addition to the earlier question I asked about payments to the Department for Environment and Heritage, etc., I also ask that the minister provide, for each NRM board, what percentage of their income, as a percentage of total income and levy income, is paid to community organisations such as local action planning groups, Landcare groups, progress associations, local government, environmental groups, and any other community-based organisations. I have touched on only a few controversial subject matters, but I am astonished that these have not come up during this review of the act.

If a review occurs in a vacuum and the bureaucracy simply gets what it wants in a bill, that is an internal review only. I am asking the government to leave this bill open on the *Notice Paper*, let the council continue the review process and get this act into shape on the question of rainfall metering, which the Premier and the community expect of the NRM Act. I make no apologies for my remarks on where NRM is up to at the moment. It needs, basically, to be rubbed out and started again. Certainly, it needs a thorough investigation; and, in my opinion, it needs quite a lot of cleansing.

Debate adjourned on motion of Hon. J.M. Gazzola.

SAFE DRINKING WATER BILL

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

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (17:56): I move:

That this bill be now read a second time.

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

Leave granted.

In 2002 the United Nations declared that safe drinking water is a basic human right that is indispensable for leading a healthy life and a pre-requisite for realising other human rights. This Bill is about protecting the safety of drinking water supplies.

In South Australia the essential requirement of access to sufficient water for critical human needs has been highlighted by the recent drought and reinforced by the Commonwealth *Water Act 2007* which recognises that water for critical human needs has the highest priority and must be taken into account. But access to sufficient water is not enough, it needs to be safe for drinking and basic hygiene to support sustainable communities.

The development of South Australian drinking water supplies has followed a similar path to those in other developed countries and regions. In the 19th century infectious diseases such as typhoid and cholera from contaminated water were common causes of illness and death. The response was to establish safe and reliable supplies, which was seen as a common good to be provided where possible and where practical by government. This led to the construction of large pipelines from the River Murray, a network of reservoirs in the Adelaide Hills and the mid-north, the installation of water treatment plants and an extensive distribution system.

There have been a number of challenges and emerging issues but these have been addressed by the development of an increasingly sophisticated system. Filtration of Adelaide water supplies was completed in the early 1990's and of all River Murray supplies in 2009. Chloramination was introduced in the 1980s to combat the causative agent of amoebic meningitis, *Naegleria fowleri*, operation of filtration processes was upgraded in the late 1990's to respond to the emergence of *Cryptosporidium* and more recently dual disinfection processes have been installed to provide added protection at a number of treatment plants. Most importantly comprehensive risk management systems have been established for all drinking water supplies operated by SA Water. The current system incorporates a multitude of controls that ensure supplies are monitored 24 hours a day, seven days a week. Throughout this development a strong and enduring collaboration has been maintained between SA Water and the Department of Health to meet the shared goal of ensuring safe drinking water supplies.

The outcome has been the establishment of safe and reliable drinking water supplies. As a result, in South Australia as in other developed States and countries, infectious disease is no longer the most common form of illness and death. In contrast, infectious disease including diarrhoeal disease remains the largest cause of death in developing countries. The World Health Organization estimates that about 2 million people, mostly children, die every year from diarrhoeal disease with a high proportion attributed to unsafe drinking water and poor sanitation.

However, while there have been great advances, safe drinking water cannot be taken for granted. The cost of complacency can be extremely high as demonstrated by significant outbreaks in North America and Europe. The most widely reported were two outbreaks in Milwaukee in the United States and Walkerton, Canada. The first occurred in 1993 where an estimated 403,000 people contracted cryptosporidiosis from contaminated water supplied in Milwaukee. The outbreak was associated with a filtered disinfected water supply not dissimilar in nature to Adelaide drinking water supplies. The estimated cost of illnesses alone was $96 million. The second occurred in 2000 in Walkerton, where contaminated water led to seven deaths and 2,300 illnesses. The overall cost was estimated to be $155 million together with loss of confidence in the town's water supply and substantial impacts on tourism.

In Australia the most notable incident occurred in Sydney in 1998 when three boil water notices were issued over a period of several weeks following the detection of suspected contamination of the drinking water supply with *Cryptosporidium* and *Giardia*. The incident received widespread national and international coverage and even though there was no evidence of illness in the community the overall cost of the incident to Sydney Water was estimated at $75M with a much larger public cost due to the impact of the boil water alerts.

The Sydney incident highlighted that communities expect their drinking water supplies to be safe and evidence to the contrary leads to strong responses as reflected in widespread media coverage. This was to be expected and such responses have been repeated whenever drinking water safety has been threatened. Even perceptions of failure can lead to high levels of community concern.

At the time of the Sydney incident there was little regulation of drinking water quality in Australia. Most urban water supplies were operated and owned by State and Territory Governments or Local Government and the introduction of regulations was not seen as a high priority. The primary responses to the Sydney incident were strengthening of the *Australian Drinking Water Guidelines* through inclusion of a preventive risk management system and operational reviews of urban water supplies to minimise the likelihood of recurrence. To a large extent these responses were led by the drinking water industry and State health departments. They were not directed by legislation. However, in the last 10-12 years operation and oversight of drinking water supplies have changed and there has been a gradual move toward regulation.

These changes have included increased corporatisation of the drinking water industry, outsourcing of functions, greater private involvement, increasing recognition of a disparity in the operation of large urban supplies and smaller community supplies and an increasing diversity of drinking water providers which is likely to increase in response to climate change. The shift toward commercialisation and corporatisation was identified by the Productivity Commission in 1998 which also noted in 2000 that regulation of drinking water safety was light-handed and while this increased flexibility it provided less certainty of compliance, transparency and accountability.

The first step toward increased regulation was inclusion of drinking water in the Model Food Bill in 2000 developed as part of the Intergovernmental Agreement on Food Regulation in Australia. This approach was adopted in the South Australian *Food Act 2001* and Food Regulations 2002 which include general requirements to produce safe drinking water. However, the Model Food Bill and the South Australian legislation do not provide

guidance on how this should be achieved or how it can be measured. Other States have developed specific drinking water legislation starting with Victoria in 2003 and followed by NSW in 2006 and Queensland in 2008. The Victorian legislation was designed to provide a consistent framework across the State as well as addressing the disparity between metropolitan and non-metropolitan supplies; the NSW legislation applies to private sector suppliers while the Queensland legislation was developed as part of a package responding to severe drought conditions.

In South Australia the long standing provision of drinking water by SA Water and collaboration with the Department of Health has served the State well with no recorded outbreaks and limited and well managed incidents. However, the changes occurring in the rest of Australia are also relevant to South Australia. Although SA Water supplies about 94% of the population of the State it is estimated that there over 500 independent drinking water providers that supply independent town supplies such as those at Coober Pedy, Leigh Creek and Roxby Downs, remote indigenous communities, schools, accommodation premises, hospitals and residential care facilities and water carters. It is expected that the number of suppliers will increase in response to challenges associated with climate variations and growing populations. Many of the independent providers are very small, but internationally it is recognised that management of small supplies can be a challenge and as a result they cause a disproportionate number of drinking water outbreaks.

Water for Good notes that with increasingly diversified supplies and potential new providers it is timely to develop and implement more prescriptive drinking water legislation to provide a more clearly defined framework for identifying roles, responsibilities and reporting requirements. The Bill fulfils these requirements and provides clear direction to drinking water providers on how to achieve safe drinking water in a manner that is consistent with the level of risk presented by different types of water supply.

The Bill was developed through a process that included extensive consultation with the broad range of individuals, organizations and agencies that could be affected by the provisions. These included operators of bed and breakfasts, water carters, Local Government, the SA Tourism Industry Council, SA Water, United Water, United Utilities and Government Agencies. The consultation commenced in 2008 prior to release of a Discussion Paper in 2009 and continued through the development and release of the draft Bill for formal consultation in 2010. A total of 22 written submissions were received during the two periods of consultation with more than half being provided by Local Government.

The core provisions described in the 2009 Discussion Paper and the draft Bill were largely derived from other Australian legislation and alternative mechanisms such as memorandums of understanding and codes of practice. Many of these provisions are also similar to requirements described in International legislation. During formal and informal consultation, responses to these provisions and the purpose of the proposed legislation were consistently positive and supportive. The only substantive changes were inclusion of provisions for exemptions for rainwater tank supplies in low risk settings and discretionary supplies in parks and other recreational areas. Other changes were generally limited to matters of detail, administrative clarity and implementation.

Comments received have been addressed and the resultant revisions have strengthened and improved the Bill. The outcome is a Bill that is both effective and practical. During consultation many stakeholders including water carters and operators of small supplies commented on the advantages of improved direction and clarity provided by the Bill. It was considered that regulation of drinking water supplies was a positive measure that would provide a level playing field for all drinking water providers and discourage poor practices.

I would like to take this opportunity to formally thank the individuals, organisations and agencies that participated in the consultation process and assisted in the development of the Bill. In particular I would like to acknowledge the contribution of Local Government and Environmental Health Australia, the professional body representing environmental health officers. Local Government plays a pivotal role in the protection of public health at a local and State level and together with the Department of Health administers the *Food Act 2001*. This experience underpinned the valuable contributions provided on the design of the Bill and practical aspects associated with implementation.

I now wish to discuss and highlight key features of the Bill.

The objective of the *Safe Drinking Water Bill 2010* is to ensure the delivery of safe drinking water as described and defined by the *Australian Drinking Water Guidelines* published by the National Health and Medical Research Council and the Natural Resource Management Ministerial Council. The Bill describes actions that if implemented should protect drinking water safety. The Bill also describes reporting requirements when it is suspected that a water supply could be unsafe. This will enable action to be taken where necessary to protect public health.

The Bill applies to drinking water providers that are currently subject to the *Food Act 2001* including SA Water and their contractors, operators of independent town water supplies, providers of drinking water in rural and outback communities, providers of drinking water in commercial settings such as schools, accommodation premises, hospitals and residential care facilities and water carters. All drinking water providers will need to register with the Department of Health. There will be no registration fee.

The Bill does not apply to businesses or others that supply water delivered by another drinking water provider such as SA Water or to domestic use of rainwater tanks and other private supplies. It also does not apply to packaged water including bottled water which by international convention is administered through food codes and legislation.

The Bill provides for exemptions for small supplies derived from rainwater tanks at premises such as bed and breakfasts, community halls and caravan parks, subject to advice being provided to guests about the source of the water. This could be achieved through simple measures such as standard tap signs and information on accommodation forms. This approach is consistent with current Department of Health advice that rainwater from well

maintained tanks and roofs is generally safe but the decision to drink rainwater is a matter of personal choice. The Bill also provides for exemptions for discretionary sources of rainwater or bore water provided in recreational areas such as National Parks where drinking water supply is not guaranteed as a condition of use of the area.

The key requirement of the Bill is that all drinking water providers will need to implement risk management plans. Risk management plans are recognised as essential components for assuring drinking water quality and investigations of international outbreaks and incidents have shown that most if not all could have been prevented by better management. Following the Sydney Water incident fundamental changes were introduced into the *Australian Drinking Water Guidelines* to greatly strengthen the focus on sustained good management of drinking water supplies. A risk management framework that can be applied to all supplies irrespective of size was included in the guidelines. A similar framework was also incorporated in the World Health Organization *Guidelines for Drinking-water Quality*. South Australia had a strong involvement in developing the risk management frameworks in the guidelines and has since worked with drinking water providers throughout the state to facilitate the development of risk management plans. This has included plans for supplies at small accommodation premises, schools and rural and remote supplies as well as those operated by SA Water. This process began before development of the Bill and organizations such as the Bed and Breakfast and Farmstay Association recommend that their members implement risk management plans. Software and paper based tools have been developed to assist operators of small supplies to prepare plans. Experience has shown that these plans can be successfully developed by all types of drinking water providers.

The plans will include monitoring programs and incident protocols which will be used to verify water safety. Monitoring plans will describe testing requirements while incident protocols will include criteria for test parameters. Non-compliance with these criteria will have to be reported to the Department allowing immediate assessment of water safety and identification of responses. While water quality criteria will be based on guidance provided in the *Australian Drinking Water Guidelines*, the Bill will not include numerical standards. A significant advantage of this approach is that it retains flexibility in dealing with system specific issues. This is an extension of the existing arrangement between the Department and SA Water. In 1999 the then Government recognised the need for an interagency water incident protocol. The drivers for establishing the protocol were the Sydney Water Incident together with contamination events in untreated sources of Adelaide's water supplies. This protocol which is coordinated by the Department of Health has operated successfully for more than 10 years.

As monitoring programs and incident protocols are used as the mechanism to verify drinking water safety the Bill requires that they will need to be submitted to the Department of Health for approval. The Department will develop guidance on the preparation of monitoring plans and incident protocols. This will include generic monitoring plans and incident protocols for common examples of small water supplies.

The issue of monitoring costs was raised by a number of stakeholders but impacts will be minimised by tailoring requirements to match the size and risk of water supplies. For example, monitoring of very small water supplies will be based on current recommendations provided by the Department of Health and costs could be as low as between $55 and $130 per year. Monitoring requirements will increase in proportion to risk and those for larger supplies operated by SA Water will generally be in line with recommendations in the *Australian Drinking Water Guidelines*. SA Water already has an extensive monitoring program and a proportion of independent drinking water providers also undertake routine monitoring.

The Bill will increase transparency by requiring that all drinking water providers submit water quality results to the Department of Health and provide results to consumers. SA Water currently provides water quality results on a monthly basis which will satisfy the requirements of the Bill. Other providers submit results on an intermittent basis or not at all. Reporting requirements will be based on size and complexity of water supplies. For example, operators of small supplies could be required to submit results every 2 years.

Drinking water providers will also be required to provide results to consumers. Large and medium size providers could achieve this by publishing results on web-sites while small providers could provide information on request to consumers. This is a standard requirement in interstate and international jurisdictions.

The Bill provides for audits and inspections of drinking water supplies. This is a standard requirement in food legislation and interstate drinking water legislation. Audits and inspections are considered to be an important tool to confirm that risk management plans are effective in producing safe drinking water. Inspection and audit frequencies will be specified according to the size and complexity of drinking water supplies. For example, SA Water will be required to undergo an audit on an annual basis while medium providers such as independent town supplies and remote supplies will be subject to an audit once every two years and small providers including accommodation and food premises will be inspected once every two years.

To reduce duplication and impacts, inspections and audits will be combined with existing requirements wherever possible. For example, drinking water audits will be combined with existing mandatory food audits undertaken at hospitals, aged care facilities and child care centres while Bed and Breakfasts could have drinking water inspections incorporated into the existing accreditation program undertaken by the South Australian Tourism Industry Council. The Tourism Industry Council has indicated support for this approach.

Inspectors and auditors will be approved for the purposes of the Bill by the Department of Health. Expertise and training is currently available for inspectors and auditors. Environmental health officers employed by Councils have the required skills to undertake inspections of small water supplies while additional training provided in South Australia for food safety auditors is considered suitable for auditors of moderate size water supplies. Many environmental health officers have undertaken this training. A formal training course has been established for auditors required under the Victorian Safe Drinking Water Act and this training is suitable for auditing large drinking water supplies.

Under the Bill, the Minister will be charged with the overall responsibility for administering the legislation. Currently, the *Food Act 2001* is jointly administered by the Department of Health and Local Government however the Department of Health will have greater responsibility in administering the Safe Drinking Water Bill. The primary reasons for this are that the largest supplier SA Water provides a statewide service that crosses Local Government boundaries while many independent water supplies are within unincorporated parts of the State. However, Local Government will retain inspection and enforcement powers for small drinking water providers in their area, such as water carters and businesses that provide drinking water in conjunction with other services, such as provision of food. Local Government currently has responsibility for ensuring compliance of these businesses with the *Food Act 2001*.

To ensure consistency, enforcement provisions including penalties for non-compliance specified in the Bill are similar to those provided in the *Food Act 2001.* These include penalties for supplying drinking water that is unsafe. In addition a penalty has been included for failure to report reasonable suspicions that a drinking water supply is unsafe.

In a similar fashion to the *Food Act 2001* and the draft *Public Health Bill 2010*, the Bill allows the Minister, local Councils or bodies established by Council to appoint authorised officers for the purposes of administration and enforcement. Authorised officers will have similar powers to those specified in existing legislation and will allow officers to undertake inspections, require provision of information, issue notices for remediation and where necessary take emergency action. This could include issuing of boil water notices in the case of microbial contamination or restrictions on use in the case of chemical contamination.

Similar to the *Food Act 2001*, the Bill establishes a framework for consultation with Local Government in relation to the administration and enforcement of the legislation. The Bill provides for a memorandum of understanding to be developed to facilitate this consultation and to ensure a shared understanding of the processes and resources required to implement and administer the Bill. Local Government has indicated that it supports the administrative structure in the Bill.

The Bill refers to a number of matters that will be prescribed by regulations such as conditions of registration, provision of exemptions for rainwater tank based supplies, the content of risk management plans, furnishing of reports, functions of inspectors and auditors and testing requirements. The regulations will refer to the *Australian Drinking Water Guidelines*. The development of regulations will be subject to further consultation.

Other than concerns about the costs of monitoring there were few comments during consultation about the cost of compliance with the Bill. To a large extent this is because many of the requirements described in the Bill should already be undertaken to meet the broad intent of the *Food Act 2001* and are recognised as good practice by responsible operators. A number of drinking water providers ranging from water carters to operators of independent town supplies indicated that they had implemented required actions. Additional costs will be incurred by providers who are not applying good management practices considered necessary to ensure and confirm supply of safe drinking water and public health protection. These costs are far below those associated with an outbreak or a substantial incident. In addition the Bill has been designed to ensure that requirements and hence costs are commensurate with the level of risk presented by different types of drinking water supply. In the case of rainwater tank based supplies in some premises and discretionary water supplies in parks and recreation areas the risk is considered to be so low that provisions for exemptions have been included.

In conclusion, the Bill provides increased protection of drinking water safety in a practical and clear manner without imposing undue costs. The Bill supports existing actions of responsible operators while discouraging poor practice. It applies equally to all drinking water supplies while recognising that requirements need to be commensurate with the level of potential of risk. The Bill provides for a level playing field for individual operators within specific commercial settings.

The Bill replaces the current general requirements in the *Food Act 2001* with clear direction to providers on how to deliver safe drinking water and how this can be measured. The Bill provides greater certainty to drinking water providers and will improve consistency across the State for both urban and rural supplies. It will support the diversification of drinking water supplies and the entry of new drinking water providers by clearly identifying requirements, responsibilities and accountabilities. By delivering improved clarity and greater transparency the Bill will improve community confidence in drinking water supplies.

I acknowledge again, the assistance from all sectors involved in the provision of drinking water supplies as well as the invaluable contribution from Local Government in the development of this Bill.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

This clause is formal.

3—Interpretation

This section inserts definitions of key terms used in the Bill including *approved auditor*, *approved auditor/inspector*, *approved inspector*, *approved laboratory*, *authorised officer*, *Chief Executive*, *council*, *Department*,

District Court, *domestic partner*, *drinking water*, *drinking water provider*, *enforcement agency*, *reticulated water system*, *risk management plan*, *spouse*, *vehicle* and *water resource*.

Subsections (2), (3) and (4) further clarify when a person will or will not be taken to be a drinking water provider.

Subsection (5) explains when water will be taken to be 'supplied in bulk'—a term used in paragraph (a)(iv) of the definition of *drinking water provider*.

Subsection (6) clarifies that the term 'collection of water' includes the recovery or harvesting of water.

Subsection (7) explains the circumstances in which drinking water will be taken to be unsafe. The Bill contains several provisions where consequences flow from supplying unsafe drinking water.

Subsection (8) sets out when a person will be considered to be an *associate* of another.

Subsection (9) clarifies that a beneficiary of a trust includes an object of a discretionary trust.

4—Application of Act

This section clarifies the scope of the Act, namely that the Act does not apply in relation to—

- any water collected or recovered at domestic premises of a prescribed class for use at those premises; or
- rainwater collected at any place of a prescribed kind for use at that place if a notice relating to the use of the water is provided in accordance with the regulations; or
- rainwater supplied as an optional alternative to water obtained from a registered drinking water provider if the person, in supplying the water, complies with the requirements (if any) prescribed by the regulations for the purposes of this paragraph; or
- rainwater, or water recovered from a bore, well or a source prescribed by the regulations, supplied at a park, reserve or other place constituting open space that is available for public recreational purposes where it is reasonable to expect that members of the public would not usually expect to rely on the provision of water for human consumption at that place; or
- water supplied, collected or recovered in any other circumstance prescribed by the regulations.

The Act will also not apply if the Minister exempts certain persons or classes of persons from the application of the Act or provisions of the Act. Such exemptions may be conditional, but if the person in whose favour the exemption exists fails to comply with such a condition, the person is guilty of an offence and liable to a maximum penalty of $25,000 or an expiation fee of $750.

Part 2—Registration of drinking water providers

5—Drinking water providers to be registered

Persons who supply drinking water as drinking water providers must be registered. Failure to be registered is an offence attracting a maximum penalty of $25,000 or an expiation fee of $750. The section further sets out the process for applying for registration.

6—Duration of registration

A person, once registered as a drinking water provider, is registered until the registration is cancelled or suspended or the drinking water provider dies or, in the case of a body corporate, is dissolved.

7—Person ceasing to supply drinking water

Registered persons must notify the Minister within a prescribed period after ceasing to be engaged in the supply of drinking water. Registration may be cancelled if the Minister receives such notification or if the Minister is satisfied that the person has ceased to be engaged in the supply of drinking water.

8—Conditions of registration

Registration of a person as a drinking water provider will be subject to conditions as may be imposed by the Minister or prescribed by the regulations. Failure by the person to comply with a condition is an offence attracting a maximum penalty of $25,000 or an expiation fee of $750.

9—Suspension of registration

This section sets out the circumstances under which a person's registration may be suspended. They are:

- contravention or failure to comply with a condition of registration; or
- failure to comply with a requirement relating to a risk management plan under Part 3 (including as to the implementation of, or compliance with, the requirements set out in a risk management plan); or
- failure to ensure that an audit or inspection is conducted in accordance with a requirement under Part 4 Division 2; or
- breach of, or failure to comply with, a requirement under Part 5 Division 1; or
- failure to comply with a notice under Part 7 Division 3; or

- failure to furnish a report or other form of information of a class prescribed by the regulations.

The remainder of the section includes procedural provisions including the rights of a drinking water provider to object to a proposal by the Minister to suspend the person's registration.

10—Appeals

A person may appeal to the District Court against—

- a condition of registration imposed by the Minister; or
- a variation by the Minister of a condition of registration; or
- refusal of the Minister to grant an application to vary a condition of registration; or
- a decision of the Minister to suspend a registration.

An appeal must be instituted within 28 days or such later time as may be approved by the District Court.

11—List of registered drinking water providers and provision of information

There will be a register of drinking water providers. This register is to be publicly available and each registration of a drinking water provider will be notified to the relevant council.

Part 3—Risk management plans

12—Drinking water providers to prepare, implement and review risk management plans

A drinking water provider must prepare a risk management plan, keep the plan under continuous review and revise any aspect of the plan requiring revision. A drinking water provider of a specified class may adopt a standard risk management plan published by the Chief Executive, rather than preparing a separate plan.

13—Risk management plan

This section sets out what a risk management plan is, namely, a document—

- that contains a detailed description of the system of supply of water; and
- that—
  - (i) identifies the risks to the quality of the water and the risks that may be posed by the quality of the water; and
  - (ii) assesses those risks; and
  - (iii) sets out the steps to be taken to manage those risks (including the development and implementation of preventative strategies); and
- that sets out—
  - (i) monitoring and testing requirements associated with the quality of the water (a *monitoring program*); and
  - (ii) incident identification, notification and response procedures (an *incident identification and notification protocol*); and
- that sets out maintenance schedules; and
- that contains any other matter required by the regulations.

In addition, a risk management plan must comply with the regulations, including any standards, guidelines or codes specified by the regulations. Failure to so comply is an offence attracting a maximum penalty of $25,000 or an expiation fee of $750.

14—Related matters

This section sets out two key offences of this Bill.

The first offence (at subsection (1)) is that of supplying drinking water to the public without a risk management plan in respect of which the components comprised of the monitoring program and the incident identification and notification protocol have been approved by the Minister. Various procedural provisions are set out relating to approval by the Minister of the program and protocol. A person who commits this offence is liable to a maximum penalty of $25,000 or an expiation fee of $750.

The other offence (at subsection (7)) is that of failing to implement a risk management plan or to comply with the requirements of the plan. Again, the maximum penalty is $25,000 or an expiation fee of $750.

Part 4—Auditing and inspections

Division 1—Auditors and inspectors

15—Approval of auditors and inspectors

This section enables a natural person (ie not a body corporate) to apply for approval as an auditor or inspector. Once approved as an auditor, a person is also taken to be an approved inspector for the purposes of the

Act. Approvals are managed by the Chief Executive. The remainder of this section deals with procedural matters relating to such approvals.

16—Term of approval

Approval of a person as an auditor or inspector remains in force for the period specified in the approval unless cancelled.

17—Conditions

This section sets out the offence of failing to comply with a condition of an approval as an auditor or inspector. The maximum penalty for committing this offence is $25,000 and the expiation fee is $750. The section also contains procedural provisions dealing with imposing, varying or deleting conditions of an approval, and rights of persons to object to a proposed suspension of an approval for an alleged contravention of or failure to comply with, such a condition.

18—Conflict of interest to be avoided

A person commits an offence attracting a maximum penalty of $25,000 or an expiation fee of $750 if he or she acts as an auditor or inspector in relation to a risk management plan—

(a) that the person has written or assisted in preparing; or

(b) that has been prepared by a drinking water provider who is an associate of the person; or

(c) that concerns the supply of drinking water in respect of which the person has a direct or indirect pecuniary or personal interest.

19—List of approved auditors and inspectors to be maintained

A list of approved auditors and a list of approved inspectors is to be prepared and maintained by the Chief Executive, made publicly available and revised from time to time.

Division 2—Audits and inspections

20—Scheme for audits and inspections

This section establishes the system whereby drinking water providers will be audited or inspected. The Chief Executive will, by notice in the Gazette, determine whether drinking water providers will be subject to audit or inspection and the frequency of such audits or inspections. Whether an audit or inspection will apply, and the frequency of audits or inspections, will depend on the size and complexity of operations carried out by the drinking water providers and any other matters the Chief Executive thinks fit.

The section requires an audit or inspection to be carried out of a drinking water provider both before the drinking water provider begins to supply drinking water to the public (under subsection (5)) and once operational (subsection (4)), in accordance with the relevant determination relating to the provider. Failure to comply with the relevant audit or inspection requirements is, in each case, an offence attracting a maximum penalty of $25,000 or an expiation fee of $750.

21—Audits and inspections

This section sets out the duties of auditors and inspectors. They are:

- to determine whether the drinking water provider has complied with the requirements of Part 3 relating to risk management plans during the audit or inspection period;
- to carry out any follow up audits or inspections, if necessary, to check to see if action has been taken to remedy any deficiencies of any risk management plan identified by the auditor or inspector;
- to report in accordance with the requirements of Part 4 Division 2;
- to undertake any other functions prescribed by the regulations in relation to audits or inspections.

In conducting an audit or inspection, the auditor or inspector must inspect documents of a kind prescribed by the regulations and comply with any prescribed requirements.

22—Reporting requirements

This section requires auditors and inspectors to provide written reports of their audits or inspections to the Chief Executive. It also requires auditors and inspectors who, as a result of an audit or inspection, believe that drinking water may be unsafe to report that belief to the Chief Inspector. Such reports must be passed on to the relevant drinking water provider. The maximum penalty for each of these offences is $5,000.

23—Assistance to facilitate an audit or inspection

A drinking water provider commits an offence if he or she fails to comply with any reasonable request or requirement of an auditor or inspector, with a maximum penalty of $5,000. A person who, without reasonable excuse, resists, obstructs or attempts to obstruct, an auditor or inspector in the exercise of a function under this Division is guilty of an offence attracting a maximum penalty of $5,000. A person also commits an offence attracting a maximum penalty of $25,000 for providing information that the person knows to be false or misleading information in a material particular in connection with the conduct of an audit or inspection.

Part 5—Quality of water and provision of reports

Division 1—Quality of water

24—Drinking water must be safe

This section makes it an offence for a drinking water provider to supply drinking water to the public that is unsafe. There are different penalties ranging from highest ($500,000) to lowest ($50,000) according to whether the provider knew, was reckless to the fact, or had no knowledge of the fact, that the water was unsafe and also according to whether the offender is a body corporate or a natural person.

25—Testing requirements

This section requires compliance by a drinking water provider with water testing requirements specified by the regulations or set out in a notice served on the provider by the Chief Executive. Failure to so comply is an offence for which the maximum penalty is $25,000 or an expiation fee of $750. The section specifies conditions precedent to the issuing of a notice by the Chief Executive, and provides that the testing may be required to be carried out at an approved laboratory (i.e. a laboratory approved under Part 6), or in accordance with the regulations or a notice furnished by the Chief Executive. These requirements are in addition to any testing requirements under a risk management plan.

Division 2—Provision of reports

26—Officer to report known or suspected contamination

This section places an obligation on officers of a drinking water provider (ie persons concerned in the management of the affairs of the drinking water provider, eg an executive officer) to report to the Chief Executive, any belief or reasonable suspicion that unsafe drinking water has been or is to be supplied for drinking water purposes. Failure by such an officer to report such a belief or suspicion is an offence attracting a maximum penalty of $25,000 or an expiation fee of $750.

27—Water quality monitoring information to be made publicly available

This section requires a drinking water provider to make publicly available the results of any monitoring program conducted on drinking water under the provider's risk management plan, with failure to do so an offence attracting a maximum penalty of $10,000 or an expiation fee of $210. The section also makes it an offence attracting a maximum penalty of $10,000 to publish results that the provider knows are false or misleading without including with the information details of the defect in the information.

Part 6—Approval of laboratories

28—Approval of laboratories

This section enables a person providing or intending to provide services under the Act at a laboratory to apply for an approval of the laboratory. Approvals of laboratories are managed by the Chief Executive. Further provisions of this section deal with procedural matters relating to the granting or refusal of approvals.

29—Recognised laboratories

Certain laboratories prescribed by regulation will be taken to be approved laboratories subject to any conditions prescribed by regulation.

30—Term of approval

An approval granted by the Chief Executive remains in force for a specified period unless suspended or cancelled.

31—Conditions

This section sets out the offence of an approved laboratory failing to comply with a condition of an approval. The maximum penalty for committing this offence is $10,000 and the expiation fee is $210. The section also contains procedural provisions dealing with imposing, varying or deleting conditions of an approval, and rights of persons in charge of a laboratory to object to a proposed suspension of an approval for an alleged contravention of, or failure to comply with, such a condition.

32—List of approved laboratories to be maintained

A list of approved laboratories is to be prepared and maintained by the Chief Executive, made publicly available and revised from time to time.

Part 7—Administration and enforcement

Division 1—Interpretation

33—Interpretation

This section defines the term *enforcement agency* as meaning—

- the Minister; or
- a council under the *Local Government Act 1999*; or

- a body established by a council or councils under the *Local Government Act 1999* and brought within the ambit of this definition by the regulations.

Division 2—Authorised officers

34—Appointment of authorised officers

A person may be appointed as an authorised officer by an enforcement agency if the person has appropriate qualifications or experience. An enforcement agency must prepare and maintain a list of authorised officers appointed by it.

35—Certificates of authority

An enforcement agency must provide each authorised officer appointed by it with a certificate of authority. A certificate of authority—

(a) may specify limitations on the powers of the officer;

(b) must be produced by the officer for inspection on request by a person in relation to whom the officer intends to exercise powers;

(c) must be surrendered if the officer ceases to be an authorised officer (failure to so surrender is an offence attracting a maximum penalty of $5,000).

36—Powers of authorised officers

The following powers may be exercised by an authorised officer in connection with the administration or operation of the Act or with the performance, exercise or discharge of a function, power or duty under the Act:

- at any reasonable time, to enter or inspect any premises or vehicle;
- during the course of the inspection of any premises or vehicle—
  - (i) to ask questions of any person found in the premises or vehicle; and
  - (ii) to inspect any article or substance found in the premises or vehicle; and
  - (iii) to take and remove samples of any substance or other thing found in the premises or vehicle; and
  - (iv) to require any person to produce any plans, specifications, books, papers or documents; and
  - (v) to examine, copy and take extracts from any plans, specifications, books, papers or documents; and
  - (vi) to take photographs, films or video recordings; and
  - (vii) to take measurements, make notes and carry out tests; and
  - (viii) to seize and retain, or issue a seizure order in respect of, anything that may constitute evidence of the commission of an offence against this Act;
- to require any person to answer any question that may be relevant to the administration or enforcement of this Act.

An authorised officer may be accompanied by assistants in the exercise of powers under the Act, but may only use force to enter premises or a vehicle on the authority of a warrant issued by a magistrate or if the authorised officer believes, on reasonable grounds, that the circumstances require immediate action to be taken.

Persons in relation to whom an authorised officer is exercising powers must co-operate with the authorised officer including with requests for assistance to facilitate inspections, not hinder or obstruct the officer or a person assisting the officer and answer questions honestly. Failure to so co-operate is an offence attracting a maximum penalty of $25,000.

A person must not refuse or fail to furnish information on the ground that it might tend to incriminate the person or make the person liable to a penalty. There are restrictions on the use that may be made of potentially incriminating information provided in response to a request by an authorised officer.

37—Seizure orders

An object or thing may be seized under a seizure order issued by an authorised officer and served on the owner or person in control of the object or thing. It is an offence, without authority, to remove or interfere with an object or thing that is the subject of such an order attracting a maximum penalty of $25,000.

Subsection (3) sets out the circumstances in which an object or thing that is the subject of a seizure order may be released or forfeited, and circumstances in which compensation for such seizure may be required.

Division 3—Notices and emergencies

38—Notices

An enforcement agency may issue a notice for the purpose of—

- securing compliance with a requirement imposed by or under the Act; or

- averting, eliminating or minimising a risk, or a perceived risk, to the public in relation to drinking water.

Such a notice may impose a requirement that the person to whom the notice is issued—

- discontinue, or not commence, a specified activity indefinitely or for a specified period or until further notice from an enforcement agency; or
- not carry on a specified activity except subject to specified conditions; or
- take specified action in a specified way, and within a specified period or at specified times or in specified circumstances; or
- take action to prevent, eliminate, minimise or control any specified risk to the public, or to control any specified activity; or
- comply with any specified standard, guideline or code prepared or published by a body or authority referred to in the notice; or
- undertake specified tests or monitoring; or
- furnish to a body or authority referred to in the notice specified results or reports; or
- prepare, in accordance with specified requirements and to the satisfaction of the enforcement agency, a plan of action to secure compliance with a relevant requirement or to prevent, eliminate, minimise or control any specified risk to the public.

A person may, within 14 days, appeal to the District Court against the notice.

An authorised officer may, if of the opinion that urgent action is required, issue such a notice, termed an 'emergency notice'. An emergency notice may be issued to a person orally provided that the person is immediately advised of his or her right to appeal to the District Court against the notice. An emergency notice ceases to have effect after 72 hours unless confirmed before then by a notice issued by an enforcement agency and served on the person.

Failure to comply with a notice (whether or not an emergency notice) is an offence attracting a maximum penalty of $25,000. It is also an offence to hinder or obstruct a person who is complying with such a notice and the same penalty applies.

39—Action or non-compliance with a notice

This section enables an enforcement agency (including an authorised officer or other person authorised to act on behalf of the enforcement agency) to take action required by a notice that a person has not complied with. The reasonable costs and expenses of taking such action may be recovered by the enforcement agency from that person as a debt in a court of competent jurisdiction. Failure to pay the debt within a fixed time makes the person liable to interest in addition to the debt.

40—Action in emergency situations

This section enables an authorised officer to take emergency action to avert, control or eliminate a risk to the public in relation to drinking water. If such action is warranted, the officer has the following additional powers (which may include the use of force to enter premises or a vehicle without a warrant):

(a) to enter and take possession of any premises or vehicle (taking such action as is reasonably necessary for the purpose); and

(b) to seize, retain, move or destroy or otherwise dispose of any substance or thing.

The reasonable costs and expenses of taking emergency action under this section may be recovered by an enforcement agency as a debt in a court of competent jurisdiction.

41—Specific power to require information

This section enables an enforcement agency to issue a notice requiring a person to furnish information relating to the quality or supply of drinking water, or any matter associated with the administration of the Act. Failure to comply with such a requirement is an offence attracting a maximum penalty of $25,000 or an expiation fee of $750.

A person must not refuse or fail to furnish such information on the ground that it might tend to incriminate the person or make the person liable to a penalty. There are restrictions on the use that may be made of potentially incriminating information provided as required.

42—Appeals

An appeal lies against a notice issued under Part 7 Division 3 provided it is instituted within 14 days or such longer period as may be approved by the District Court. An enforcement agency is entitled to be a party to appeal proceedings.

Part 8—Miscellaneous

43—Delegations

This section enables the Minister, the Chief Executive or an enforcement agency to delegate a power or function vested or conferred under the Act to a particular person or body or to the person for the time being occupying a particular office or position.

44—Service of notices or other documents

This section allows for various methods of service of notices or documents, namely by—

- being served on, or given to, the person or an agent of the person; or
- being left for the person at his or her place of residence or business with someone apparently over the age of 16 years; or
- being sent by post to the person or an agent of the person at his or her last known address; or
- being sent to the person by fax; or
- being served or given in some other manner prescribed by the regulations.

In addition, if the notice or document is to be served on or given to a company or registered body within the meaning of the *Corporations Act 2001* of the Commonwealth, it may also be served or given in accordance with that Act.

45—Disclosure of certain confidential information

This section makes it an offence attracting a maximum penalty of $50,000 for a person to disclose information relating to manufacturing or commercial secrets or working processes obtained in connection with the administration or execution of the Act unless the disclosure is made—

- with the consent of the person from whom the information was obtained; or
- in connection with the administration or operation of this Act; or
- for the purposes of any legal proceedings arising out of this Act or of any report of any such proceedings; or
- in accordance with a requirement imposed by or under this Act or any other law; or
- to a person administering or enforcing a law of another jurisdiction that corresponds to this Act or any other law prescribed by the regulations; or
- to a person administering or enforcing the *Food Act 2001* or an Act of another jurisdiction that corresponds to that Act; or
- to a law enforcement authority; or
- with other lawful excuse.

A person does not commit the offence if the information was publicly available at the time the disclosure was made.

46—Protection from liability

No liability attaches to the Crown, the Minister, the Chief Executive, an enforcement agency, an authorised officer or any other authority or person engaged in the administration of this Act for an honest act or omission in the exercise or discharge, or purported exercise or discharge, of a power, function or duty under this Act.

47—False information

A person commits an offence attracting a maximum penalty of $25,000 for providing information or producing a document (in connection with a requirement or direction under the Act) that the person knows to be false or misleading in a material particular.

48—Offences by bodies corporate

This section provides an avenue of pursuing individuals involved in the management of a body corporate where the body corporate has committed an offence under the Act or regulations.

49—Offences

This section restricts the persons who may commence proceedings for an offence against the Act to—

- the Minister; or
- the Director of Public Prosecutions; or
- an authorised officer; or
- a member of the staff of the Department; or
- the chief executive officer of a council; or
- a police officer; or
- a person acting on the written authority of the Minister.

50—Agreement and consultation with local government sector

This section provides for the involvement of the LGA in the administration and enforcement of the Act. It also provides for Parliamentary scrutiny of reports about agreements entered into between the Minister and the LGA in relation to the exercise of functions under the Act by councils. The Minister must consult with the LGA before a regulation that confers a function on a council is made under the Act. Details of consultation, and of the operation of any agreement, referred to under the section must be included in the Minister's annual report.

51—Annual report by Minister

The Minister must, before 30 September in each year, prepare an annual report on the operation of the Act for the previous financial year, and cause copies to be laid before both Houses of Parliament.

52—Annual reports by enforcement agencies

This section requires enforcement agencies, before 30 September in each year, to report to the Minister on their activities during the previous financial year. The Minister must cause copies of the report to be laid before both Houses of Parliament.

53—Regulations

This section sets out the regulation making powers. They include powers to—

- require the furnishing of reports, returns, documents or other forms of information relevant to the registration scheme under this Act to the Minister;
- require the furnishing of reports, returns, documents or other forms of information relevant to quality or supply of drinking water, or to any other process or other matter associated with the supply of drinking water, to the Chief Executive or other prescribed person or body;
- require the keeping of records, statistics and other forms of information—

  (i) by any person or body that supplies drinking water; or

  (ii) by any person or body that performs a function under or pursuant to this Act,

  (and the provision of reports based on that information);
- require that prescribed classes of systems or processes associated with the supply of drinking water must be managed, maintained or undertaken by persons with prescribed qualifications or experience, or who satisfy other competency requirements;
- prescribe standards and other requirements that must be observed or applied in relation to the quality or supply of drinking water;
- make provision with respect to the monitoring of drinking water quality, or any component or characteristic of drinking water, including with respect to the method, collection and analysis of samples;
- provide for the making of announcements or the provision of advice to the public in prescribed circumstances;
- prescribe guidelines to assist in the administration of this Act;
- make provision with respect to any auditing, inspections or testing under this Act;
- prescribe fees and charges in connection with any matter arising under this Act, including fees or charges for or in connection with the exercise, performance or discharge of any power, function or duty of an enforcement agency or an authorised officer under this Act, which may be of varying amounts according to factors prescribed in the regulations or determined by the Minister from time to time and published in the Gazette;
- provide for the payment and recovery of prescribed fees and charges;
- prescribe penalties, not exceeding $25,000, for a breach of any regulation;
- fix expiation fees, not exceeding $750, for an alleged breach of any regulation.

This section also provides for the inclusion in the regulations of further matters relating to the adoption of standards, guidelines or codes.

Schedule 1—Consequential amendments and transitional provisions

Part 1—Consequential amendments

1—Amendment provisions

This clause is formal.

Part 2—Amendment of *Food Act 2001*

2—Substitution of section 11

This clause substitutes section 11 of the *Food Act 2001*, updating that Act with terminology used in this Bill, and clarifies the fact that the Food Act only governs drinking water that is not governed by this Bill.

Part 3—Transitional provisions

3—Transitional provisions—initial period of operation of Act

This clause provides for a transitional phase for registration of drinking water providers under the Act.

For a person supplying drinking water as a drinking water provider (either as an existing provider or a new provider) before the expiry of three months after the commencement of clause 3 (this clause), the person will not be required—

- to be registered until three months after the commencement of this clause; or
- to comply with section 20(5); or
- to have a risk management plan under Part 3 until the day of expiry of 12 months after the commencement of this clause.

For a person commencing to supply drinking water as a drinking water provider on or after the day of expiry of three months, but before the day of expiry of 12 months, after the commencement of this clause, the person will not be required to have a risk management plan under Part 3 until the day of expiry of 12 months after the commencement of this clause.

4—Other provisions

This clause enables the making of regulations of a saving or transitional nature consequent on the enactment of the Act. Such a regulation may, if the regulation so provides, take effect from the commencement of the Act or a later day, but if it takes effect earlier than the date of the publication of the regulation in the Gazette, it does not operate to the disadvantage of a person by—

- decreasing the person's rights; or
- imposing liabilities on the person.

Debate adjourned on motion of Hon. T.J. Stephens.

At 17:57 the council adjourned until Tuesday 5 April 2011 at 14:15.