HOUSE OF ASSEMBLY

Wednesday 4 July 2001

The SPEAKER (Hon. J.K.G. Oswald) took the chair at 2 p.m. and read prayers.

WANGANEEN, Mr G.

A petition signed by 45 residents of South Australia, requesting that the House urge the government to establish an inquiry into the death of Grant Wanganeen and review police training, deployment and liaison procedures, was presented by Ms Bedford.

Petition received.

QUESTIONS

The SPEAKER: I direct that written answers to the following questions on the *Notice Paper*, as detailed in the schedule I now table, be distributed and printed in *Hansard*: Nos 87, 91, 117 and 121.

EDUCATION, SCHOOL SUPPORT SERVICES

In reply to **Ms WHITE** (31 May).

The Hon. M.R. BUCKBY: The Department of Education, Training and Employment is not costing educational support services in order to sell them to Partnerships 21 schools and preschools. However, from time to time, the cost effectiveness of programs will be monitored, as is normal good management practice.

Should any change occur in the current policy of providing support services to sites outside the Partnerships 21 global budget process, an adjustment would have to be made to the global budget to enable this to occur.

HOSPITALS, FUNDING

In reply to **Ms STEVENS** (5 June).

The Hon. DEAN BROWN: Hospital boards have sufficient cash to run their respective hospitals and are not required to take out bank loans to pay staff and maintain services.

HINDMARSH SOCCER STADIUM

The SPEAKER: Yesterday the Leader of the Opposition asked me a question relating to the out of session tabling of the Auditor-General's Report into the Hindmarsh Soccer Stadium, including the period after the parliament has prorogued, and in particular whether the motion moved by the Deputy Premier and carried by the House on 28 November in relation to its tabling remains valid. The effect of prorogation of the parliament at the end of the session for the winter recess is that all proceedings come to an end and that all business on the *Notice Paper* lapses. Likewise, any sessional orders cease to have effect.

Also, some resolutions or orders of the House cease to have any force unless they are deemed to continue in a session by virtue of being passed as a standing order or unless there are explicit provisions to give them continuing force, or unless it is implicitly understood that they have an ongoing effect. I believe that the motion moved by the Deputy Premier on 28 November 2000 falls into this last category, that is, it was implicitly understood to have had an ongoing effect.

Members interjecting:

The SPEAKER: Order!

Mr Foley: Too scared.

The SPEAKER: Order! The member for Hart will come to order.

Members interjecting:

The SPEAKER: Order! The House will come to order.

Members interjecting:

The SPEAKER: Order! The Minister for Minerals and Energy will come to order. Let us have some courtesy when the chair is conducting business.

LEGISLATIVE REVIEW COMMITTEE

Mr CONDOUS (Colton): I bring up the 23rd report of the committee and move:

That the report be received and read.

Motion carried.

Mr CONDOUS: I bring up the 24th report of the committee and move:

That the report be received.

Motion carried.

Mr CONDOUS: I bring up the 25th report of the committee and move:

That the report be received and read.

Motion carried.

QUESTION TIME

SA WATER

Mr CONLON (Elder): Does the Minister for Government Enterprises stand by his statements to this House last week that he is still fully committed to SA Water's involvement in its West Java project and that no exit strategy is being discussed by SA Water, given that a commercial due diligence report prepared for SA Water's new CEO, Anne Howe, recommends pulling out of the Pol Induk venture indefinitely? The report states:

It now seems unlikely that the major reforms on which the project depends will be achieved as quickly or as easily as was originally envisaged.

It recommends that SA Water delay signing an agreement to undertake further work on the Pol Induk project until the government of West Java has introduced tariff and a range of other necessary reforms, for which there is no set time frame.

The Hon. M.H. ARMITAGE (Minister for Government Enterprises): I take exactly what the—

Members interjecting:

The SPEAKER: Order!

The Hon. M.H. ARMITAGE: —member for Elder said in reading out the summary of what the report says. The independent consultants quite specifically do not say SA Water should pull out—quite specifically. The independents quite specifically say—

An honourable member interjecting:

The Hon. M.H. ARMITAGE: If the member for Elder looks at the *Hansard* tomorrow, he will see what he has read into the *Hansard*, which is the report of the independents, and they say quite specifically that there ought not be an opportunity to pull out because there will be gains to SA Water, as the government has been at pains to say.

Members interjecting:

The SPEAKER: Order! The member for Hart will remain silent.

The Hon. M.H. ARMITAGE: The government has continually said that there are opportunities for the private sector from our government to government relationship in West Java. That is exactly what we are looking at fostering. We are looking at fostering that in exactly the same way which, as I indicated to the Estimates Committee last week, Laurie Brereton says is in Australia's interests to do. That is exactly where we are looking. I reiterate, the report of the independent consultants, simply put, made no such recommendation as the member for Elder has indicated.

STATE BUDGET

The SPEAKER: Order! The member for Stuart.

Members interjecting:

The SPEAKER: Order, the member for Hart!

The Hon. G.M. GUNN (Stuart): We know that the member for Elder is busy trying to appoint press secretaries, and he is slightly distracted.

The SPEAKER: Order, the honourable member for Stuart!

The Hon. G.M. GUNN: Will the Premier inform the House about the response within South Australia to the 2001-02 state budget which has just completed its passage through this chamber?

The Hon. J.W. OLSEN (Premier): You cannot overstate the importance of the budget, in particular its capacity to assist development and progress of the state. As I mentioned yesterday, for some seven years we have been focussing on an export culture, re-establishing our financial credentials and attracting investment into our state. That is part of rejuvenating our state. The process that we have been putting in place is to build economic strength through building stronger communities. The budget was responsible. It cemented South Australia's representation for sensible economic management which has helped us now lead the nation in economic growth and export growth, and helped us make dramatic inroads into the state's unemployment problem.

As I mentioned yesterday, this week sees the delivery of the state's largest ever payroll tax cuts. That is one of the reasons the budget has been reasonably well received by business, because it is taking an input cost off those business operators in our state. Of course, from this week, pensioner concessions on council rates begin as well, with cash benefits to flow through to the community as the year progresses. I might add, because the member for Hartley interjects, that self-funded retirees are also included: a number of my colleagues have championed the cause of not only pensioner concessions but also self-funded retirees. This budget, in effect, does that in regard to council rates. Since the budget, there have been hundreds of inquiries about the concessions and, obviously, people are aware of it and are keen to assess it and to receive that benefit.

In addition, budget measures to attract a lot of inquiries include the police recruiting centre, which has had hundreds of inquiries, I am told, now that people realise that we are busy recruiting to take the total number of police to 200 extra over a two year period. Also, I understand that Energy SA has reported receiving about 146 calls concerning the solar hot water heating rebate announced in the budget. The other measures that have triggered some positive feedback are the huge capital investments in our hospitals—the Royal Adelaide, Queen Elizabeth and Lyell McEwin. They are massive upgrades of our public hospital system.

I guess that one of the real insights into how successful our budget has been is how quickly the opposition went silent on it. We had, for the first day or two, the obligatory criticism—I would put it in the category of whingeing—led by the member for Elder, who got it wrong. Either he was confused, he deliberately misled or he is economically illiterate. I do not know which one it is or whether it is a combination of the three, but he could not even read the budget papers. Members opposite have fallen silent since then, because the state budget has some good news in it. I guess the leader would only dream of budgets such as this—strong, confident, solid, delivering budgets—compared to those in which he was involved which were absolute disasters for the state.

The annual estimates committee was the opposition's chance to scrutinise the budget. Well, they were a non-event this year. Here was an opportunity for the opposition, in a year before the election, to scrutinise the budget. It was a non-event. Labor's biggest moment came from the member for Hart—the man who purports to be Treasurer and who keeps telling us that he is going to be Treasurer, so confident is he in the outcome. The member for Hart came out with a story about someone who had spent their first home grant. The trouble is that he had not checked the facts. Even his federal colleague, who reported a conversation to him, walked away from the member for Hart when push came to shove to deliver the goods on it. So, in that respect, the member for Hart, with just another media stunt, fell flat.

That happens to be the same member who said yesterday in relation to our budget—that is right, our budget, the one put down last month—that he cannot improve on what we have done. That is what he said yesterday. The member for Hart is going to take existing resources for existing resources. That is a great piece of doublespeak, and I quote directly from *Hansard* what the member for Hart indicated. He has a bold economic plan of taking existing resources for existing resources. That is a do-nothing policy.

The Hon. M.D. Rann interjecting:

The Hon. J.W. OLSEN: No, a do-nothing policy. Unemployment has been stripped by 5 per cent, private sector and capital investment are outperforming the rest of the nation—we have a growth in our state of 4.9 per cent that outperforms every other state in this country. As long as Labor has been in government in the past, they have never delivered economic growth and performance like that. It has never achieved a 5 per cent strip off unemployment queues in this country. They have never achieved for the state private sector new capital investment as this government has achieved over the past seven years. What they want to do is creep back into government without putting forward any policies for exposure. As Kim Beazley said on ABC Radio in Adelaide a few weeks ago, if you put out a policy, someone will ask you how you will pay for it, so the idea is not to put out a policy. If you purport to be the government in waiting, you have a responsibility to put out policies and cost them. It might be a forlorn hope not only that you would have a policy or cost it but also that you would put it out for public debate, assessment and judgment.

The Hon. M.D. Rann interjecting:

The SPEAKER: Order! The leader will come to order!

The Hon. J.W. OLSEN: The Leader of the Opposition says he is the Premier in waiting. He hardly turned up to the budget estimates. This is the Leader of the Opposition who wants to be known as the education Premier, but I wonder: did he turn up to the education estimates committee? No. He

also wishes to be the employment Premier. I wonder: did he turn up to the employment estimates committee? I bet that he also wants to be the Premier to look after volunteers. Did he turn up to the volunteers estimates committee? The point is that the Leader of the Opposition, who purports to be all things to all people at all times, was not prepared to front up and ask one question in estimates on those subjects.

We had 10 years of destruction of the economy. It has taken us seven years to rebuild the finances of our state, and we have in our state an opposition that has no ideas, no plans, no policies and no directions. That is arrogance, laziness or reinforcing the risk factor. It is a combination of all three. We have an opposition that is arrogant and lazy, and—

Mr CLARKE: I rise on a point of order, sir. I refer to standing order 98. In addition to taking an excessive amount of time to answer this question, the Premier is debating his answer in an argumentative fashion rather than answering the substance of it.

The SPEAKER: Order! The member will resume his seat. The chair understands the point of order and would ask the Premier to return to the question.

The Hon. J.W. OLSEN: Not only are they arrogant and lazy but also they have demonstrated that, with no new policies, no ideas and no direction, they are still a major risk factor for our state's future.

SA WATER

Mr CONLON (Elder): Will the minister now explain whether there is any chance of South Australian taxpayers recouping the $7 million that SA Water has spent so far in West Java, given that SA Water is being told to back out of its West Java operations indefinitely to avoid further unnecessary costs? The minister told parliament nine months ago that the break-even point of the West Java project for South Australia was 12 to 18 months. He said the contract would:

> . . . bring back to South Australia private revenue, in addition to the revenue the government will get. They will create jobs for South Australian people in the water industry.

When will we see any of that?

The Hon. M.H. ARMITAGE (Minister for Government Enterprises): The simple fact is that the member for Elder—

The Hon. R.L. Brokenshire interjecting:

The SPEAKER: Order, the minister for police!

The Hon. M.H. ARMITAGE: —has not proven his case one iota. The member for Elder said that SA Water is being advised to pull out of West Java; wrong! The report quite specifically does not say that.

Mr Conlon interjecting:

The SPEAKER: Order! I call the member for Elder to order.

The Hon. M.H. ARMITAGE: I am prepared to repeat that. The report quite specifically does not say that. It is quite simple. What the report says is that because of political changes it may take longer to get the money, but it does not say 'pull out'. When one looks at our water industry, it is interesting indeed to look at what the member for Hart and the member for Elder say in fora other than this one. I refer to an ABC Radio interview on 1 March 2001, where Phillip Satchell and David Bevan interviewed the member for Hart. The member for Elder was quoted from the Economic and Finance Committee that morning, I believe, where he sledged SA Water by saying—and I quote from the radio interview:

> Look, you are trying to coat-tail on United—

Mr Conlon interjecting:

The SPEAKER: Order! I warn the member for Elder.

The Hon. M.H. ARMITAGE: Mr Conlon, from the opposition, said:

> Look, you are trying to coat-tail on United Water's efforts. United Water are competent. It's SA Water that we're here to discuss today.

Philip Satchell and David Bevan then invited the member for Hart to comment on what the member for Elder had said. The member for Hart said:

> ... I think United Water have run our state's water system well. I mean, we have no evidence to say they haven't.

He further said:

> I mean, the exports—

Mr CONLON: Sir, I rise on a point of order. I have listened now for 30 seconds to find out what relevance this has to the question about SA Water and where it is going.

The SPEAKER: Order!

Mr CONLON: He is not debating the question; he is debating another question.

The SPEAKER: Order! There is no point of order. The chair would like to give the minister more than 30 seconds so that I can hear the threads he is pulling together.

The Hon. M.H. ARMITAGE: The member for Hart went on to say:

> I mean, the exports and the development of a water industry is almost entirely on the back of the work done by United Water.

So, in that forum, the member for Hart acknowledges that we have a water industry that is exporting and that is doing well. The member further said:

> But if you're talking to me about exporting success, where there has been export success...it's a bit rich of SA Water to claim the credit when it was United Water who were doing the work.

What the member for Hart and the member for Elder probably will not acknowledge, but it is a fact, is that when they questioned the director of United Water, Mr Graham Wood, about the West Java process, he said:

> Government to government contact in that forum is absolutely appropriate, and it is exactly what should be happening.

That is what the director of United Water said and, as the member for Hart acknowledged in a radio interview, we now have an export focused, world-competitive water industry.

The other side of the coin is what governments do with money. It is fair to say that the member for Hart has been particularly keen on remediation of areas in his electorate. And, as a local member, that is completely fine. However, if the member for Hart thinks that that remediation program will make money for the government, he is wrong. If the member for Hart—

An honourable member interjecting:

The Hon. M.H. ARMITAGE: The point is just this: there are a number of projects which the member for Hart will acknowledge do not make money for the government. If the member for Hart—

Mr FOLEY: Sir, I rise on a point of order. This was a question about $7 million sunk in Indonesia for no return, not about projects in my electorate.

The SPEAKER: Order! There is no point of order. The minister is drawing, I think, a parallel between two cases.

The Hon. M.H. ARMITAGE: Exactly. If the member for Hart wants me, as one minister, to cease every project in his electorate that is not making money for the taxpayer—

An honourable member interjecting:

The Hon. M.H. ARMITAGE: No. But, you see, the member for Hart cannot have it both ways. The member for Hart cannot come in here and make what I think is a flawed case. It is a flawed case that West Java will not make money, because the consultants have not said, 'Pull out.' But he cannot expect to have that case made on the one hand and, on the other hand, to have the taxpayer spend money in his electorate with no return—in fact, not with no return; at a considerable loss. If the member for Hart wants to be an economic purist, please let me know—and I am very comfortable with stopping all the projects in that electorate. However, getting back to West Java, the simple fact is that the member for Elder said either in his question or in his explanation that SA Water had been told to pull out of West Java by the independent consultants—totally wrong!

STUDENT RETENTION RATES

Mr HAMILTON-SMITH (Waite): Will the Minister for Education and Children's Services advise the House of South Australia's actual position with regard to student retention rates since the release of supplementary data by the Australian Bureau of Statistics on 21 June?

The Hon. M.R. BUCKBY (Minister for Education and Children's Services): The Liberal Government in this state has remade education since it came into power. In 1993, we inherited an education system that was in complete disarray. Creating a State Bank debilitating debt was not good enough for the Labor Party, because at the same time it abandoned any policy making to the union and, in addition, left a system that was stagnant, tired and demoralised: in fact, as I said, a system in complete disarray. From day one this government set about remaking the education system. Students in the early years and literacy programs were given the highest priority. Real value has been placed on vocational education, which was abandoned by the Labor Party in 1991 when it closed Goodwood Tech.

Local management and modern curriculum were introduced, and new technologies comprehensively supported and funded to the tune now of some $85 million, which is very different from the $300 000 in the last year of the Labor government. Let us talk about student retention rates, because this is a statistic that is very frequently quoted by the self-proclaimed education premier when he chats to his pals in the AEU bunker and when he promotes his hollow, unfunded policy statement. This self-appointed education premier says he will raise school retention rates. He slyly claims that, when he was Minister for Further Education in the dying years of the Bannon Labor government, the retention rates were up. Is it any wonder that they were up? He fails to declare that at that stage Prime Minister Keating abolished the job start allowance, reined in unemployment benefits and cut Austudy for some year 12 courses: all forcing students to stay at school longer.

In addition, in 1992, SSABSA changed the SACE certificate from a one year certificate to a two year certificate, allowing students to spread their study over two years. Is it any wonder that more students stayed on for that second year in 1992? No wonder retention was up. I have news for the self-proclaimed education premier. The government has raised retention rates, and the latest ABS statistics—not my statistics but ABS statistics—clearly demonstrate that on 20 June (when they were released), for the year 2000, 80 per cent of students from year 8 to year 12 were retained as against the national average of 76 per cent. Let us get this on the record. I have been saying in this House for some time that part-time students were not included in ABS figures, yet the would be education premier was saying publicly that our retention rates were around, I think, 60 or 56 per cent. We knew that 27.5 per cent of our students undertook year 12 on a part-time basis. Many of those students work at McDonalds, in the local supermarket or in the local newsagency on a part-time basis to pick up some money while they are continuing their year 12 studies. Yet this was conveniently ignored by the self-proclaimed education premier.

Well, sir, he has now been proven wrong again with respect to retention rates, and I must say that his silence has been deafening since that date. The self-proclaimed education premier, as the Premier has said, did not even come into the estimates committee to ask one question, not one question, yet here is the person who is saying that education will be first if a Labor government gets into power.

Well, let me tell him that Peter Upton, who is one of the major advisers to Tony Blair in the Labor Government in England, has said to me that P21 is the best local management system anywhere in the world at this stage. That is from a Labor Party adviser to Prime Minister Blair. So, we will continue to hear nothing, I am sure, because P21 is working well. We are now again subject to silence over retention rates.

SA WATER

Mr CONLON (Elder): My question is directed to the Minister for Government Enterprises. Just what political advice has Peter von Stiegler been providing to SA Water about Indonesian politics and administration in West Java, given that SA Water's recent due diligence report by Bastian Partners reveals that local Indonesian politics is in turmoil and is likely to prevent any water reform—

Members interjecting:

The SPEAKER: Order, the member for Waite!

Mr CONLON: —from occurring in the Indonesian province indefinitely. Mr von Stiegler has been paid by SA Water for the last three and a half years to advise on Indonesian politics. The colourful Mr von Stiegler often carried a pistol in an ankle holster, together with large sums of cash, and has had a long connection with the gold card party and strong connections with the Indonesian military. According to the minister, von Stiegler is 'highly respected' by the Governor of West Java.

The Bastian Partners' due diligence report of June 2001 reveals that the Governor of West Java is now under investigation on issues of impropriety. The report also says that political circumstances with Indonesia are such that the provincial government is unlikely to be able to direct local governments to cooperate in any water reform.

The Hon. M.H. ARMITAGE (Minister for Government Enterprises): Selective quoting is great. However, I would actually ask the member for Elder to attempt to quote selectively the bit that says, 'SA Water should pull out of West Java.' I would actually challenge him to do that, because it is not there. In regard to the politics of Indonesia, it is of interest to practitioners of politics in South Australia that politics is actually changeable, not only in South Australia but also around the world. Indonesia is one of those areas where politics is changeable on a regular basis. From what I have observed in the last week, there has been a major change in Indonesian-Australian relations. Indonesian-Australian relations following the visit of President Wahid with our Prime Minister have advanced greatly.

Members interjecting:

The SPEAKER: Order! I warn the member for Hart for disrupting the House. Minister.

The Hon. M.H. ARMITAGE: Given the geographical position ob both countries, etc., long may that continue. That is exactly why the South Australian government is in there as, if you like, a—

Members interjecting:

The SPEAKER: I warn the member for Elder.

The Hon. M.H. ARMITAGE: —forerunner of the export industry that the member for Elder and the member for Hart both acknowledge has occurred under this government. It was not occurring under the previous government, and the water industry will be beneficiaries of that contact.

YOUTH UNEMPLOYMENT

Mr VENNING (Schubert): Can the Minister for Employment and Training inform the House what measures are in hand to help combat youth unemployment in regional areas of South Australia?

The Hon. M.K. BRINDAL (Minister for Employment and Training): I thank the member for Schubert for his question. I particularly note his keen interest in this issue, especially as he represents an area that is, in fact, one of the booming areas of this state. The government has put in place in relation to employment a number of significant and specifically targeted areas for the youth of this state. An amount of $8 million over four years will be used to provide a program to combat high youth unemployment as part of the youth employment program. In addition, $3.2 million over the next four years has been allocated to fund a number of pilot programs under an integrated youth strategy. I would have thought, sir, that the man who would be Treasurer of this state might at least be interested in how we are spending the money, seeing that our budget is so good. If the member for Hart is not interested, well he can go back to talking because he will never get there.

There are two strategies, which are new initiatives, that focus entirely on youth to groom them so that they play an active role in society and to assist them in finding their place in life. The integrated youth strategy will actually deliver new youth empowerment initiatives at a local level across South Australia and is in addition to the existing range of youth initiatives. The youth employment program will target young people in those areas of the state that experience a disproportionately high level of unemployment. Working closely with community organisations in its first year of operation, the government aims to provide assistance to 825 young people, through various projects, and it is anticipated that 410 of these young people will gain employment as a result of these initiatives. I hope opposition members are particularly taking note of these new programs because, as I have said, they are specifically targeted to areas of unemployment concentration, especially among youth. I am very interested to hear from those members opposite, unlike the member for Lee, who I know are genuinely concerned about youth unemployment and will want some assistance in these programs.

Moreover, last Friday I had the pleasure of releasing the government's response to the Employment Council's interim report, 'Opportunities for a lifetime'. The 60 page response addresses every one of the 18 recommendations that the Employment Council made. At the start of the year, the Premier said publicly that the government's work will not be done until everyone who wants a job has one. In other words, the Premier made employment growth a key priority of this government, and he alluded to it in answer to his first question. But so, too, the Leader of the Opposition, who has repeatedly said that employment is the number one priority for his party. Yet, in the whole 20 minutes devoted to employment during question time, the leader was not sighted. I take objection to that; I had officers working for months. I told officers in the Department for Employment that we would be put under the griller; this is the highest priority of the Labor Party in South Australia, so get it right and have all the facts and figures and be prepared. So, we were prepared; all the time and energy and where was the Leader of the Opposition? Off dreaming up a—

Mr Wright interjecting:

The Hon. M.K. BRINDAL: The member for Lee says that I have got it wrong.

Mr Wright: No, you would have got it wrong.

The Hon. M.K. BRINDAL: No; the member for Lee says that I have got it wrong. I would like to know one thing and that is: where is their team? Three years into the job as employment minister I do not even know who the shadow minister for employment is. Sometimes the member for Lee pipes up and sometimes the Leader of the Opposition pipes up and sometimes the member for Hanson is sent in to bat at the crease. They do not have any policy or any idea who is even running the Employment portfolio.

They have a half capped, half mad announcement about the Michigan Jobs Commission, rolling several government departments into one. We have a much better idea. It is called Smart Growth. If the member for Lee stop chortling for a minute, I inform him that tomorrow I will table the document, and I commend to members opposite the notion of Smart Growth and our response. They might actually learn something. For the benefit of the honourable member opposite, I will sit down. She does not need to wave at me. You do not try to discourse with people who do not have the intelligence even to listen.

SA WATER

Mr CONLON (Elder): Churlish! Very curmudgeonly! Will the Minister for Government Enterprises explain the current status of the multimillion dollar government to government agreement signed by the Premier and the Governor of West Java in Indonesia in January 1988—

The Hon. G.M. Gunn interjecting:

The SPEAKER: Order, the member for Stuart!

Mr CONLON: —how that contract relates to SA Water's contract in West Java, and whether these contracts leave the South Australian government exposed legally or financially if they fail to continue?

Members interjecting:

The SPEAKER: Order! There are too many interjections on my right.

Mr CONLON: Very rude fellows! On November 8 last year, the Minister for Government Enterprises told parliament:

> SA Water has won a contract to be systems manager in Bandung. That is a government to government contract, and that is the level at which SA Water has been involved. The project is backed by the World Bank.

The Governor of West Java's brother (remember him?) was paid at least $16 000 by SA Water as a consultant to this project. Last week in estimates the minister said that govern-

ment to government relationships were extremely important in Asian countries. What is going on?

The Hon. M.H. ARMITAGE (Minister for Government Enterprises): If the member for Elder does not know that government to government relations are important in Asia, that is an extraordinary admission. I thought everybody knew that, but maybe not. The whole premise of the opposition's questioning is that the independent report says that the contract ought to be concluded and that SA Water should get out. That simply is not correct. I have said it before, but I will repeat it: it is not correct.

Mr Conlon interjecting:

The Hon. M.H. ARMITAGE: But where, Patrick, does it say 'Get out'? It does not say that.

Members interjecting:

The SPEAKER: Order! The minister will resume his seat. I warn the member for Elder for the third time and just remind him that next time his fate will be in the hands of members, not mine.

The Hon. M.H. ARMITAGE: The member for Elder's question and interjection are either in the paragraph of the report—and I do not have it in front me—immediately after what he read out or, indeed, in the paragraph that he read out and did not continue to read. The independent advisers quite specifically do not say that SA Water should get out of West Java. What they say is all the things that we have been saying all along—that government to government relations are important. There is an opportunity for the South Australian private sector to do well from this. They say the return may be longer than was originally hoped for, but they do not say to abandon the project.

DOG AND CAT MANAGEMENT BOARD

Mr SCALZI (Hartley): Will the Minister for the Environment and Heritage advise the House of the status of the report from the Dog and Cat Management Board following its review of the Dog and Cat Management Act? No doubt the minister is aware of the continuing community concern about dog attacks, as well as being aware of the interest in this matter on the part of not only concerned parents but also responsible dog owners in my electorate.

The Hon. I.F. EVANS (Minister for Environment and Heritage): I thank the member for Hartley for his question. I am aware of his very strong interest in the issue and the fact that he has tabled a number of petitions containing about 4 500 signatures, if I recall, on matters relating to dogs and leashing. It is important that members understand that the discussion paper that was published relating to the review into the Dog and Cat Management Act, which was conducted by the Dog and Cat Management Board, refers to a number of different issues other than just leashing, which I note has been a matter of public debate in the media today and yesterday. It is important that members realise that the report provided to the government touches on a number of issues in relation to dog and cat management—things such as dog and cat management plans; guide dogs; fee structures; appropriate procedures for barking dogs; penalties; uniformity of microchipping and the success of microchipping; and a number of others as well. It is important that the House is aware that the report provided by the Dog and Cat Management Board is a broad-ranging report and has been given due consideration by the government.

The member for Hartley has been an advocate for the compulsory leashing of dogs: this is a complex issue and is still being considered by government. It is a complex issue because, for any level of government that requires compulsory leashing (and I note that the City of Salisbury is one of the first councils in the state to venture down that path), it is very important that that policy, if implemented, brings the community with it by way of having off-leash times so that dog owners can have the appropriate area in which to exercise their pets, and any responsible dog owner would have an interest in that.

This is a debate that polarises the community somewhat, and I will be interested to observe the effect of the City of Salisbury's policy and how the community comes with it. I know that the council has worked now for a couple of years on the policy. As I say, the government is considering the issue but, in fairness, has not reached a final conclusion on the matter.

It is a complex issue because it may well be that what is needed in metropolitan Adelaide is totally different from what is needed in regional and country South Australia, where there are cattle dogs and stock dogs that are part of everyone's work structure, if you like, and I guess people are more used to handling the dogs and, indeed, the dogs themselves are quite often of a different nature. So, I guess it needs to be considered at least on a council basis, or on an area by area basis.

Some people have raised the issue of compulsory muzzling, but there are issues in respect of muzzling small dogs. Do you specify what type of muzzles, and do muzzles cause the dog more harm than leashing? I think the House needs to be aware that the matter of dog bites is a serious community health issue, and some of the statistics are quite sobering. While the government's collection method may not be mathematically absolutely perfect, even allowing for some error in the statistics, I think it is important that the House considers long-term outcomes. This is a community health issue, and governments and parliaments must consider policies in relation to this question.

We are advised that there are about 29 000 dog attacks in South Australia each year, and about 6 500 of those will require some form of medical treatment. In fairness, a lot will be very minor treatment indeed, but it still registers as a statistic. About 800 of those 6 500 will end up in the emergency departments of our public hospital system, and about 250 of those 800 will be children under the age of 12. They are sobering statistics, and they require governments and parliaments—and indeed councils—to consider dog ownership in relation to the community health issue. I make no criticism of dog owners, most of whom are responsible people, and there needs to be balance in the debate about responsible dog ownership and the concept of compulsory leashing.

It is also important for parliament to note that, in regard to those statistics, the approximate split in every category of attacks or injuries is that 50 per cent happening on private property as against 50 per cent happening on public property. So, when the statistics say that 800 people end up attending emergency sections of our hospitals, about 400 of those would be as a result of attacks occurring on public property and about 400 on private property. In other words, it is the owner's own dog that has attacked either a visitor to their home or a member of their family. That is a difficult policy issue to try to deal with, given that it is the dog owner's own dog, on their own property. I am trying to illustrate to the House that the issue is complex. The government has not reached a conclusion on the matter. We are certainly con-

sidering the issue in light of the community debate that is going on and at the appropriate time we will update the House. I also want to recognise the very good work that the member for Hartley has done on the issue. I know he is very committed and that there was a very unfortunate incident involving some of the family of one of his constituents of which we are all aware. The member for Hartley has been a passionate advocate for his constituency on this issue.

SA WATER

Mr CONLON (Elder): I direct my question to the Minister for Government Enterprises. Given that the new CEO of SA Water commissioned a due diligence report on the West Java project, which was completed last month by Bastian Partners, will the minister tell the House whether any previous due diligence has been carried out into the West Java project, who conducted it and what advice did they give? Or did the minister simply rely on Mr von Stiegler's advice?

The Hon. M.H. ARMITAGE (Minister for Government Enterprises): When this matter has been raised on a number of occasions previously I have been at pains to identify that, having questioned him at length about this, the person upon whose advice I relied was in fact Mr Sean Sullivan, the man whom the member for Elder has championed. I accepted Mr Sullivan's advice. I suggest that I must have quizzed him on three or four occasions about West Java, and on each occasion the man whom the opposition has championed and whom the member for Elder has defended loudly in this House gave me quite specific advice that the West Java exercise was good for South Australia, good for the government and excellent for the water industry. That is the advice that I relied on.

Mr Foley interjecting:

The SPEAKER: Order! I warn the member for Hart for the second time.

The Hon. M.H. ARMITAGE: I reiterate that the advice I relied on was Mr Sean Sullivan's. There is another element to this. As I have been at pains to identify today, what the member for Elder does not say about the report is that the consultants quite specifically do not advise the government to stop the involvement of SA Water in West Java. I believe the member for Elder quoted this but, if not, I am aware of the fact that the report by the independent consultants says that the return will be slower, but it does not say that there will be no return on the investment and it does not say that we should pull out. One then takes note that in estimates last week the member for Elder indicated that the ALP would close the West Java exercise immediately. That means that the member for Elder and the opposition are flying in the face of the report of the independent consultants, because the consultants quite specifically do not say to close the West Java operations.

That is what the independent consultants say. It is not what the government or what I say as the Minister for Government Enterprises: the independent consultants say that the returns will be slower but they do not say to close the West Java operations. The ALP would do that, immediately flying in the face of the consultants and immediately totally jeopardising the possibility of any return at all, even though the independent consultants say it will be a slower return. That is exactly what the opposition would do; it would throw away any opportunity at all of getting a return which, the consultants say, whilst it will be slower, will occur. To me that seems voodoo economics on the part of the member for Elder.

HERITAGE AND ENVIRONMENT

The Hon. R.B. SUCH (Fisher): Thank you, sir. I direct my question to the—

Members interjecting:

The SPEAKER: Order! The member for Fisher has the call.

The Hon. R.B. SUCH: I direct my question to the Minister for the Environment. What role, if any, is the state government playing in relation to the redevelopment of Ayers House and its grounds and, similarly, in relation to the construction of a cycleway-walkway through the sandhills in the Semaphore-Largs Bay area?

The Hon. I.F. EVANS (Minister for Environment and Heritage): In relation to the second part of the question regarding the coastal pathway—the linear park through the dunes—I advise the member for Fisher that the Department of Environment and Heritage's Office of Coast and Marine was fully consulted during the process in relation to that development, and it has advised that the development is in accordance with the Coastal Protection Board's policies. During the extensive community consultation process (and there has been a consultation process over some two years in relation to that coastal pathway), there were something like five stakeholder group meetings and one public consultation meeting during 1999. There were three more stakeholder meetings during the year 2000, and the stakeholder group included local residents. So, there have been something like eight or nine stakeholder consultation meetings or public meetings in relation to the issue.

They have looked at the advice that the Office of Coast and Marine gave in relation to this pathway. They have considered things such as storm events, including the matter of where we will need to put the pathway within the dune area in relation to future storm events—or the king tides, as they are called; and they also looked at native vegetation issues. The advice to me is that flora, fauna and reptile surveys were carried out in relation to that area for consideration as to where they might place the path.

The issue of dune management and pathways and dunes is a difficult one. One of the issues of which the member for Fisher may be aware is that, if we do nothing with dunes and allow a number of ad hoc trails to be developed without any formal trail, we create more erosion issues and more damage to the dune area than having one formal area, where everyone directs onto the one trail. So, there are, I guess, two sides to the argument concerning the development of the dunes and the location of the pathway in relation to the dunes. But I emphasise to the House that the Office of Coast and Marine was fully consulted, and it advised that it was done in agreement with the Coastal Protection Board's policy.

The Ayers House matter really comes under Minister Lawson, I think, and DAIS. But, certainly, Heritage SA was consulted in the matter and gave advice on the process in relation to the development that is taking place there. I understand that the National Trust applied for, and obtained, commonwealth Centenary of Federation funding of some $1.26 million towards the internal and external conservation and restoration works. That included a garden and grounds restoration program to restore as much of the area as possible to the authentic 19th century style, and a planting of species format with appropriate signage interpretation. That, in part,

has meant the removal of some trees, which has been the subject of some public comment over the last few days, and which I think probably might be the reason for the member's question.

DOG AND CAT MANAGEMENT BOARD

Mr HILL (Kaurna): My question is directed to the Minister for Environment and Heritage, and it follows on from the question asked by the member for Hartley. Why has the minister not publicly released the Dog and Cat Management Board's report, which has been with him, I understand, since December last year? In view of the minister's statement today that new legislation would not be made 'until a full public consultation has taken place', will the minister now release that report?

The Hon. I.F. EVANS (Minister for Environment and Heritage): The government is considering the report, and we will ultimately respond to all the recommendations in the report. We do not want to respond to just one recommendation and not the other 15 or 16 that might be contained in the report. As soon as it is released, of course, the government is asked what is its position. Until the government's position is finalised, we want to go through the full government process—

An honourable member interjecting:

The Hon. I.F. EVANS: If the member read the discussion paper that was released, that would give him a very good indication of the issues that are being discussed. If the opposition spokesman is saying that, even though the discussion paper was released a year ago, he is not aware of it, he does not have a copy of it and is not aware of the issues, that is really not my worry. The government will respond to all the issues once we have fully considered them within the government process.

SA WATER

Mr MEIER (Goyder): Can the Minister for Government Enterprises clarify to the House Bastian Partners' advice regarding SA Water's role in West Java?

The Hon. M.H. ARMITAGE (Minister for Government Enterprises): I thank the member for Goyder for an opportunity to clarify a number of items which appear not to have been read into the record from the report from which the member for Elder quoted earlier today. The simple fact is, as I have been at pains to say, that the report does not say that SA Water should get out of West Java. That was as far as I was prepared to go, because I did not have the report. I now have been given a copy of the report from my office, and it is important that the House and everyone in South Australia knows that the final sentence of the Bastian Partners' report regarding SA Water and West Java entitled 'The Way Ahead' says:

> While this will mean delaying the signing of the agreement, SA Water should continue its efforts to promote business opportunities for the State's water industry in West Java.

In other words, what the independent report says is exactly what I have been saying throughout question time today, and it is exactly the opposite to what the member for Elder said when he indicated that the report said that SA Water should get out of West Java, because, quite clearly, it does not. In fact, the report goes on to identify a number of other opportunities. It says that the proposed approach should be to 'change the focus of SA Water activities from Jakarta to Bandung'.

Mr Foley interjecting:

The Hon. M.H. ARMITAGE: 'Change the focus', not get out. It will change the focus of SA Water's activities—

Mr Foley interjecting:

The SPEAKER: Order! I warn the member for Hart for the third time; he has had a pretty fair go.

The Hon. M.H. ARMITAGE: The proposed approach by Bastian Partners would:

> change the focus of SA Water activities from Jakarta to Bandung. This move will demonstrate South Australia's continuing commitment to the Sister Province-State relationship.

Another item which Bastian Partners says is as follows:

> The proposed approach is to continue to provide advice and support to [the] water reform program and to seek opportunities for the South Australian Water Industry in West Java.

This is a 5½ page document which actually vindicates SA Water staying in West Java, because, quite clearly, the independent consultants say to continue in West Java, which is exactly the opposite to what the member for Elder said the report said. There can be only three reasons for that: first, complete stupidity—and that is not correct; the member for Elder is not stupid; secondly, he has misunderstood it—

Mr Foley interjecting:

The Hon. M.H. ARMITAGE: The member for Hart interjected that I was lying. I am not lying and I would ask him to withdraw.

The SPEAKER: Member for Hart, you are requested to withdraw it.

Mr FOLEY: I withdraw 'lie' and replace it with 'untruth'.

The Hon. M.H. ARMITAGE: There can be only three reasons: first, stupidity—and I am absolutely certain that the member for Elder is not stupid; secondly, he has misunderstood the report—and that would be unfortunate; or, thirdly, he is deliberately drawing conclusions which, simply, the words do not support.

VOCATIONAL EDUCATION AND TRAINING

Ms WHITE (Taylor): My question is directed to the Minister for Education and Children's Services. Given that the minister claimed in the estimates committee of 21 June that the apparent $28 million decrease in the vocational education and training budget for this year was merely a mistake and that last year's budget papers were incorrect, when was this so-called $28 million mistake discovered; and why was this neither explained as a variation in this year's budget papers, nor did the minister make any corrective statement to parliament in the 12 months leading up to being questioned on this in this year's estimates?

The Hon. M.R. BUCKBY (Minister for Education and Children's Services): Vocational education is certainly one area of which this government can be very proud, because we have rewritten vocational education in this state following the abandonment of vocational education by the Labor Party in its last years of government. Our TAFE system is taking great strides in vocational education, and we have smoothed the passage between schools and TAFE to allow our year 11 and year 12 students to undertake vocational education. In many cases, it is taught on TAFE institute sites, and they are delivering to our young people of the state. Not only that, we now have—

Ms WHITE: On a point of order, Mr Speaker, my question was why, if there was a $28 million mistake in last year's budget papers, the minister did not come back to parliament and explain it.

The SPEAKER: Order! There is no point of order.

The Hon. M.R. BUCKBY: As I was saying, many excellent programs are being run in vocational education and TAFE. I will investigate the allegations of the member for Taylor and report back to her.

GRIEVANCE DEBATE

The Hon. M.D. RANN (Leader of the Opposition): Today we have seen some fairly extraordinary events. In giving evidence before the Economic and Finance Committee today, TransGrid stated that South Australian taxpayers would be $100 million to $190 million better off each year if this government had actually embraced Riverlink. What was also revealed today was that this government actually insisted that ETSA transmission break off negotiations with TransGrid.

Here we have a situation again where TransGrid has revealed, according to the evidence given today, I am reliably informed, that it is disappointed that the government urged NEMMCO to defer the project, that ETSA transmission was instructed by the government to break off negotiations, and that in fact South Australian taxpayers would have been $100 million to $190 million better off each year if we had done what we should have done and if this government had not deferred Riverlink. That is what it comes down to.

Last week I was in the extraordinary position as Leader of the Opposition of actually having to go across and do what the Premier should be doing, and that is negotiate with Premier Bob Carr to commit to fast-track the planning and other approvals for an electricity interconnector between South Australia and New South Wales. I was very pleased to be able to announce that, following talks in Sydney last week, Premier Carr has agreed to give the Riverlink interconnector strategic project status in New South Wales.

So, my appeal to the Premier today is: rather than defending the indefensible—that is, the fact that he should have committed to Riverlink back in 1998 when he was told to do so, rather than urge NEMMCO to defer the project—now pick up the phone and talk to the Premier of New South Wales. It is time to actually get moving at this end. The Premier stands ready, so does the electricity minister, and so does the Treasurer, Michael Egan, to begin negotiations to get this project under way.

Of course, we have also seen today some other extraordinary things. My advice to the Premier, seeing that I am giving him advice, should be to have a reshuffle immediately. The simple fact is that the ministry should be cut by two and he should reshuffle his frontbench to enable it to deal more effectively with the electricity crisis. Michael Armitage, the Minister for Government Enterprises, who has already given up on the people of Adelaide and the seat of Adelaide and who failed to win pre-selection for the seat of Bragg, should be the first casualty.

Here we have a minister defending this deal for this project in West Java, and also defending his relationship with Mr Von Stiegler, who apparently is running around acting as a representative for the South Australian government with a gun in an ankle holster. If this were not so serious, it would be laughable. Here we have a government that has already wasted $7 million in West Java on this project but has now got itself into such a position that it is terrified to admit its mistake, so it will continue.

Let me make this announcement today: a future Labor government, if elected later this year in October or next year, if the Premier hangs on, will end this nonsense in West Java as a priority. We have here a government that said that SA Water had to get out of the water business here in South Australia because running water in this state was too risky a business and should be handed over to the French, but apparently it is not too risky for SA Water to be involved in a perilous exercise in West Java.

While on the subject of a reshuffle, we understand that Minister Brokenshire is very keen to have the Human Services portfolio; he wants to get out from being the minister for the emergency services tax. He tried to get the seat of Finniss off Dean Brown and now he wants Human Services as well as Finniss. It is interesting that the Premier says that he has done a great job with the emergency services tax. Well, the words 'emergency services tax' will be part of the designation of Minister Brokenshire, the member for Mawson, for not too long.

The Hon. J.W. OLSEN (Premier): As it relates to the member for Mawson and the minister, I can say without fear of contradiction that he has, more than any previous government in this state, delivered to the emergency services in South Australia greater support and funding to undertake their tasks within the community. But, importantly, I want to respond to some of the leader's comments about TransGrid because, as is his wont, he left out certain facts of evidence presented to the Economic and Finance Committee today. What the Leader of the Opposition forgot to include in his remarks is that with the TransGrid proposal the New South Wales government wanted us to underwrite, at $20 million a year, for a period, I am advised, of 15 years, and even if we had a cool summer we would pay the $20 million either way. I calculate 15 years at $20 million a year to be $300 million in costs. That is the first point I want to make.

The Leader of the Opposition might get his advisers to do a little homework before he comes into this House and makes these broad-brush statements. In addition, I point out to the Leader of Opposition that, in evidence put before the Economic and Finance Committee today, TransGrid acknowledged that they wrote on 30 July 1999 and requested NEMMCO to suspend deliberation of its application pending completion of the code review. Let us put this into some context. Not only did we have that but the New South Wales government-owned utility, TransGrid, did not say that in July-August 1999 it wanted its project's evaluation suspended. It was another seven months—in March 2000—before TransGrid requested the re-evaluation to commence. That is seven months before they asked for it to again commence.

In addition, it took TransGrid a further seven months after that—in November last year—to complete its economic evaluation, and NEMMCO could not consider it until TransGrid had done their economic evaluation. You would have to ask whether TransGrid was really serious about pushing this development through. It would have had its economic evaluation completed, so when it asked for the re-evaluation to commence it would have done its economic evaluation: they had not done so. So, the 13 or 14 months'

delay in the process has not been caused by the South Australian government. The evidence of TransGrid before the Economic and Finance Committee clearly indicates that the 13 or 14 months' delay is at the request and due to the processes of TransGrid themselves.

The other point I want to make to the Leader of the Opposition is: yes, we wrote in about 1998 but, of course, we have no authority to direct NEMMCO to make a decision. But, importantly—

The Hon. M.D. Rann: You have finally admitted it.

The Hon. J.W. OLSEN: What rubbish! If the Leader of the Opposition will contain himself for one minute I will explain. We did write in June 1998 but I am advised that NEMMCO had already made a decision not to proceed. So, in fact, the letters crossed in the mail. NEMMCO had made a decision before the South Australian government request, which it can only lodge as a request and no more. The reason for the request: because the Leader of the Opposition would want us to sign a blank cheque to the New South Wales government. That is what he wanted. That proposal had a full $300 million cost to the taxpayers of South Australia.

Let us put to rest this nonsense, perception and re-engineering of history by the Leader of the Opposition in his remarks today. Let us look at the evidence presented to the Economic and Finance Committee. And the evidence is clear: TransGrid itself asked for the delay. The 13 to 14 months is the responsibility of TransGrid, the New South Wales government enterprise.

Honourable members: Hear, hear!

The SPEAKER: Order! The member for Lee.

Mr WRIGHT (Lee): Some 12 months ago, South Australia learnt that the West Lakes area had a cadmium problem. There were no real details or confidence from the government as to how we would deal with this problem, and there were certainly no solutions from the government. During the past 12 months or so, the government has been deafening in its silence as to what it is prepared to do and how it will address this critical issue.

We now know a number of things. We know that there is a problem. We also know that there are significant problems and we know that they simply will not go away. We also know that not all the information has been put out there because it has not been supplied. So, there is some uncertainty in addition to what I have already highlighted. But we do know that at least two individuals have had elevated blood readings and that some parks and reserves have readings above the recommended level. We also know that some footpaths have readings above the recommended levels and that readings inside some Housing Trust properties are above the recommended levels.

We have some problems where there is a clear responsibility for the government to sort out this mess. This is a responsibility of government to bring together the critical areas and organisations such as EPA, DHS, Crown Law—the various areas of government—with the local community to ensure that a solution is put forward on behalf of the government. We as a local community have been waiting very patiently for some recommendation from the government as to what it is prepared to do. We need to know what the government, after 12 months has elapsed, is prepared to do to fix this problem. We do know that there was not one cent in this year's budget to address this critical environmental health-related problem that we have known about for some 12 months. We have been led to believe that a submission is apparently going to cabinet but I have also been told that there may not be a cabinet submission. So, there is even an element of doubt about that matter. We also know that the government is considering this matter in such a way that would involve managing the problem rather than looking at remediation.

This is a serious problem that needs to be addressed and a number of questions need to be answered. There must be a political will by government to show that it is prepared to deal with this problem. First and foremost, as a matter of urgency, a public meeting must be held so that full disclosure can be made to the residents of West Lakes. I call upon both the Minister for Environment and the Minister for Human Services to attend that meeting. They have not fronted up to any of the previous meetings with local residents. I want full details to be made available about health issues, including any long-term health risks for residents—not just short-term risks but I want to know about the potential long-term risks.

I also want to know what the government is prepared to do—if anything—when it comes to remediation. Is the government prepared to make the tough decision to solve this problem and not just simply to take the easy way out, because management of the problem simply is not good enough. Also, what is the government prepared to do to clean up the mess for the Housing Trust area? There is a problem at West Lakes. It a serious problem, and I do not believe the government is serious about fixing it. However, I can assure the House of this: this is a critical issue, and I will stay with it all the way as the local member, making sure that I assist the local community to force the hand of the government to solve this problem.

The Hon. G.M. GUNN (Stuart): Last week I again had the pleasure of visiting the Beverly uranium mine in my district, and it clearly brought into focus the importance of this project for the people of South Australia. It also brought into clear focus how important it is that every encouragement is given to the people who are attempting to develop the Honeymoon uranium mine.

Energy demand across the world has changed considerably. The new energy minister in the United Kingdom has clearly indicated that they will put a greater emphasis on nuclear power, as has George Bush on behalf of the United States. We in South Australia have the capacity to increase our production greatly, so I call upon the Leader of the Opposition to say exactly where he stands on these issues—

Mr Koutsantonis: What's your policy on it?

The Hon. G.M. GUNN: It was only after the election of this government that the Beverly uranium mine was allowed to continue.

Mr Koutsantonis: Has it increased in production?

The Hon. G.M. GUNN: It was not operating until this government came into power. If the honourable member knew anything—

Members interjecting:

The Hon. G.M. GUNN: Let me finish, and I will explain to you. The honourable member obviously does not know very much about the project. It was only as a result of this government's cooperation with the federal government that the project was allowed to continue. Today we have a very efficient operation producing approximately 1 000 tonnes of uranium a year—yellowcake—and employing in excess of 50 people. A lot of those people have come from Port Augusta and worked on a fly in, fly out basis. There is a capacity there to increase production from 1 000 to

1 500 tonnes. We want to know what the policy of the Labor Party is.

Mr Koutsantonis: Are you going to increase production?

The SPEAKER: Order! The honourable member will remain silent.

The Hon. G.M. GUNN: Of course, out from Olary a great deal of work and effort has been put in to a similar project at Honeymoon. In my view there is a need to give all encouragement and assistance to the proponents there to develop that project. It is an area where there is limited employment, and the 50 to 60 jobs that will be created will be great for local people. When they were carrying out the earlier work there, the local people were delighted to have the employment. Therefore, there will clearly be an increase in demand throughout the international scene for uranium. We have the capacity, the ability and the reserves, and we should do everything possible to continue to develop it.

I well recall all the debates in relation to the development of Roxby Downs. We hear very few people arguing about that. The proponents have had to go through the difficulties of ill-informed, irrational demonstrators going there, terrorising members of the public, attacking the police and carrying on in a disgraceful manner. The Beverly project will also bring benefits to the other areas; it will provide better communications, with a strong possibility of having electricity connected to some of the stations, perhaps to Balcanoona and Arkaroola. There will be flow-on benefits from this project.

The Labor Party, both federal and state, vigorously opposed these projects, and they were held in mothballs until the election of Liberal federal and state governments. What is the policy of the Leader of the Opposition and his energy spokesperson on the future development? The people in these areas are entitled to know whether members opposite will close down Beverly and whether they will allow the ongoing development of Honeymoon. Will they allow future development of up to 1 500 tonnes being mined? The people of South Australia are entitled to know, as are the people in my constituency. They support the development, and they want the ongoing employment. They want to see the uranium industry develop because long term it is probably the most efficient and clean form of energy.

I have had the privilege of looking at nuclear power stations and nuclear reprocessing in a number of countries. Europe depends upon nuclear power; there is a huge capacity. Canada and Australia have the ability, and in South Australia in particular is where the supplies—

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

The Hon. G.M. GUNN: That's unfortunate.

Mr KOUTSANTONIS (Peake): Last night during the debate on the Appropriation Bill I raised serious allegations of improprieties occurring in our prisons. Today I have received some facts relating to more problems being experienced at Yatala Labour Prison. It is my understanding that two prisoner are in collusion—prisoner Collins and Keogh—in forming an internet web site for the purpose of importing cannabis and narcotics from interstate or overseas.

Prisoner Collins was incarcerated at Mobilong prison, having been arrested for trying to import 10 kilograms of marijuana from overseas into South Australia while incarcerated there. He was then transferred to Yatala Labour Prison, where he was held in the minimum security F division, where he met prisoner Keogh. Prisoner Keogh had access to a SIM card and mobile phone. Prisoner Collins had access to a laptop computer. Although the department of corrections had full knowledge that this prisoner had a laptop with a modem, these two men created a web site and sent emails overseas and interstate for the purpose of importing drugs—under the very nose of this government and this minister, who thinks he is tough on drugs.

Last night I raised concerns about the two drug policies in Yatala Labour Prison. If you have intravenous drugs, you are clamped down on, but if you have cannabis, you are asked, 'Did you have a bad day?' This is an absolute disgrace. I understand that a social worker at Mobilong prison who was having an affair with a prisoner and who has perhaps supplied the SIM card to prisoner Keogh has been suspended, with pay, and transferred to Yatala Labour Prison to resume work, after being compromised at Mobilong prison. This is an outrage.

I also found out today that some of the guard towers at Yatala Labour Prison are unstaffed; they are unmanned. There are up to seven towers at Yatala Labour Prison, and only three of those towers are staffed between the hours of 7.30 a.m. and 4 p.m. At night these towers are not staffed. The residents surrounding Yatala Labour Prison have a right to be concerned that this government has cut staffing and funding to our prison system, and now there are no guards in those towers. These towers, which overlook maximum security prisoners while they are in their yards, are not being staffed. If there is an escape at night, there are no guards in these towers to inform the authorities and prevent an escape.

This minister has been caught out again for being incompetent in running our prison system. What will happen if a prisoner escapes from Yatala Labour Prison because the towers are unstaffed and commits a crime? I will hold this minister responsible for any crime committed by a person who has escaped from Yatala because the towers were not being manned. It is an absolute disgrace.

I understand that an investigation is being conducted right now in Yatala Labour Prison into these two prisoners colluding together under the very noses of prison officials and forming a web site. Prison Collins, who was transferred from Mobilong, has a history of importing drugs while in prison, and he was moved to minimum security in Yatala! In minimum security he was given a laptop computer with a modem, with the full knowledge of Correctional Services. Henry Keogh had a SIM card and a mobile phone. Prisoners today still have laptops with modems being used in the education department of the Yatala Labour Prison. What are they doing about it? Absolutely nothing! The member for Coles laughs: she thinks that it is funny that prisoners are importing drugs while inside prison. The idea of people going to prison is to rehabilitate them, not to help them become better criminals and not to help them become more ingenious in the way they import drugs. There has to be a clamp down.

This minister is being hypocritical. He comes in here and says that he is tough on drugs, yet he allows the practice to go on in prisons. This prisoner, Collins, should be in maximum security where he cannot be importing drugs. He cannot be allowed to continue. I think the government should launch a full investigation into this because it is outrageous that people in the prison system are dealing in drugs. Given that the government has a two-tiered policy on drug use in prisons, it is a disgrace. The minister says that anyone who is not in prison and who is caught using marijuana should be arrested and charged, but if you are in prison and you are caught using marijuana, it is a matter of: 'It's okay: you have

had a tough day. It is very tough in prison, so maybe you need the drugs.' It is not good enough. The minister has to act, and he has to act immediately.

The Hon. J. HALL (Minister for Tourism): Standing Orders do not allow me to call someone a liar, despite what that person has said about me in this House. I could start instead by referring to the member for Hammond's remark about me last night as beneath contempt. However, I will not say that he is beneath contempt, because he stands in the white heat of my full contempt for his malicious and totally untruthful attack on my veracity and on my character under the cloak of the privilege of this House. I reject, absolutely, his claim that I am corrupt. Unfortunately, he is too much of a coward to risk the inevitable legal retribution that he would pay if he said that outside of this chamber. I reject, utterly, his statement that I have been involved in a 'crooked, rotten and corrupt deal' with anyone about anything. The member for Hammond brings disgrace on the representation of his electorate, as well as being in abuse of parliament.

Mr KOUTSANTONIS: I have a point of order—standing order 127, personal reflections on members.

The SPEAKER: Order! No, I do not uphold the point of order.

The Hon. J. HALL: The member's claims, of course, have taken on a particularly mischievous relevance recently because they are made while the Auditor-General is involved in an investigation of the Hindmarsh stadium project. One could ask the question: is the member for Hammond trying to influence the content of that prospective report? My answer is that it is a blatant attempt at political interference and could prejudice a fair inquiry hearing. Further, and more seriously, to that point is the question of whether he has colluded with anyone else in such a calculated and irresponsible action. Why do I ask that question? Because Labor Party members voted with the member for Hammond last night and thereby—

Mr KOUTSANTONIS: I have a point of order.

The SPEAKER: Stop the clock. It is a serious debate, and we will stop the clock to take the point of order.

Mr KOUTSANTONIS: Thank you for stopping the clock, sir, because you often do it for us as well.

The SPEAKER: Order! Will the member repeat that?

Mr KOUTSANTONIS: Sorry?

The SPEAKER: What did the member say then?

Mr KOUTSANTONIS: I said thank you for stopping the clock.

The SPEAKER: Because I do it for your side as well.

Mr KOUTSANTONIS: The member for Coles is now reflecting upon a vote of this House. In her remarks, she is reflecting upon a vote of this House.

The SPEAKER: Order! There is no point of order. Commence the clock. I call the member for Coles.

The Hon. J. HALL: As I said, last night Labor Party members voted with the member for Hammond and, thereby, endorsed his personally vindictive, untrue and destructive claim that I am corrupt. Whilst I do not expect any plaudits from Labor members, there has to be a reason beyond personality for the support of such a claim. That reason is in one word and it is 'Hindmarsh', and Hindmarsh is an issue that is beginning to turn around and bite the Labor Party. And why? Because the Auditor-General's inquiry was set up with the full support of Labor members and is being inappropriately used by them and the member for Hammond as a political witch-hunt against the government. Since then, Labor members have backgrounded any interested parties about false and misleading claims about Hindmarsh stadium and, meanwhile, those of us who are within the framework of the inquiry are bound by an undertaking and are unable to defend against the ramped-up political activity of the government's opponents. The case is without substance and Labor has run out of innuendo to feed the media and it is clearly petrified of the costs of the inquiry, for which it is directly responsible, and the political costs that Labor will bear because it is at it again, throwing away taxpayers' money. The Labor Party cannot say that it was not warned. In the Legislative Council last year the Hon. Mr Cameron said:

> We are likely to receive a bill for $3 million or $4 million—

Mr KOUTSANTONIS: I have a point of order.

The SPEAKER: There is a point of order. Stop the clock.

Mr KOUTSANTONIS: The minister is referring to a debate in another house, which is clearly out of order.

The SPEAKER: The member must not refer to debates in the other house. I call the minister.

The Hon. J. HALL: As we know, it was said that this inquiry could cost a significant amount of money if the motion in that house was carried, which it was. Armed with that warning, Labor members knew that the costs could go through the roof. Its hypocrisy on this issue is breathtaking and staggering but unfortunately predictable. After the stadium construction projects were, together, built on time and for less than the budget estimates, Labor falsely claimed a mythical blow-out. There was no blow-out in the construction. The blow-out now looms from a different quarter, as Labor was warned last year. Will it be $2 million, $3 million or $4 million? I suggest that people ask the Labor Party. I want every member of this House to understand, and I want the community of South Australia to understand, that millions will be spent on the Auditor-General's Hindmarsh report because of the Australian Labor Party. Meanwhile, the Auditor-General has to continue to construct and prepare his report and it is to him and his investigation that anyone who has information should turn rather than engaging in the sordid and malicious character assassinations of the member for Hammond that were supported last night by the Labor Party in a minority vote of this House.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE: URBAN TREES

Mr VENNING (Schubert): I move:

> That the 42nd report of the committee, being the urban trees report, be noted.

The Environment, Resources and Development Committee decided, on its own motion, to undertake an inquiry into current urban tree protection policy and legislation. This was due to concerns raised by local government over the ability to meet tree protection requirements, both administratively and financially, set by amendments to the Development Act and implications of impending exploration of some measures.

In response to ongoing community and government concerns about tree removal in metropolitan Adelaide, a Development (Significant Trees) Amendment Bill 2000 was introduced to address the lack of tree protection afforded in urban areas. This is in contrast to the protection offered to non-urban areas under the Native Vegetation Act, an act that I am very much aware of. So, the bill enabled amendments to the Development Act to give local government the ability

to both protect and manage significant trees within the urban environment.

The committee initiated this brief inquiry in March 2001 by seeking the views of all metropolitan councils on their ability to meet the deadline of 1 July 2001 to put in place additional policies for the protection of significant trees. The committee received a number of submissions from several metropolitan councils and consulted the Local Government Association. The report highlights the implementation concerns with urban tree protection policies.

The ACTING SPEAKER (Mr Meier): I want to check that you are talking about the 26th report of the Statutory Authorities Review Committee on the inquiry into animal and plant control boards and soil conservation boards, and not on the 42nd report of the Environment, Resources and Development Committee on urban tree protection.

Mr VENNING: I am, indeed, wrong. I thought we were doing the committee reports first.

The ACTING SPEAKER: We are, but we are doing No. 1, which is the 26th report of the Statutory Authorities Review Committee. If the member wants, he can move a simple motion that Notice of Motion No. 2 be considered before Notice of Motion No. 1.

Mr VENNING: I move:

That Notice of Motion No. 2—That the 42nd report of the Environment Resources and Development Committee on Urban Tree Protection be noted—be taken into consideration before Notice of Motion No.1—That the 26th report of the Statutory Authorities Review Committee into the Inquiry into Animal and Plant Control Boards and Soil Conservation Boards tabled in the Legislative Council on 11 April be noted.

Motion carried.

Mr VENNING: Thank you, sir, and I apologise for the inconvenience. Without looking at the *Notice Paper,* I assumed that this was the first one, because it came from the committee this morning.

The Development Act now provides that any activity that damages a significant tree is development. Development regulations were amended to provide that a significant tree is any tree in metropolitan Adelaide which has a trunk circumference of 2.5 metres or more or, in the case of trees with multiple trunks, which has trunks of a total circumference of 2.5 metres or more and an average circumference of 75 millimetres or more measured at a point one metre above ground level, or any tree identified as a significant tree in a development plan.

Councils have the opportunity to identify and list other trees not within this prescription as significant trees within the development plan, to facilitate protection. The development plan is amended through the plan amendment report process to achieve this outcome. In order to give councils time to prepare necessary PARs, two additional time limited categories of significant trees were made available for the minister to implement at council request. Six local government bodies—Burnside, Mitcham, Unley, Prospect, Norwood, and Payneham and St Peters—as well as Adelaide, requested the additional controls. These controls were to expire on 1 July 2001. However, the minister yesterday tabled Development Act regulations to extend this time to 1 July 2002. Certainly, I am very pleased that she has done that, because otherwise it would have caused untold embarrassment all round.

The new urban tree policies have been introduced with some positive and negative reactions. Mitcham council has indicated that the new controls are operating successfully as a significant deterrent against tree removal that it views as being unnecessary. However, despite the additional policies to protect trees of less than 2.5 metres in diameter set for a period of time, the time frame was insufficient for local government to implement the urban trees PARs. No local government body had set in place additional tree protection policies within the prescribed time frame—I stress none—despite considerable cost and effort on the part of many of them. Several councils have also directly expressed difficulties in preparing and implementing current tree legislation and the subsequent policies, with the City of Unley describing the current arrangements as 'unworkable'.

Advice from councils to the ERD Committee indicate a number of concerns including: costs associated with surveying council areas in significant detail; impracticalities in enforcement, especially time, cost and provision of significant legal evidence; information becoming outdated due to life cycle of trees; development regulations as a more effective and appropriate mechanism for listing and controlling trees;, the appropriateness of section 23(4) of the Development Act (Local Heritage Places) for the protection of significant trees; and the relevance of tree preservation orders under the Local Government Act, the Native Vegetation Act and other legal mechanisms for improving the protection and management of urban trees. The report tabled recommends that the Minister for Transport and Urban Planning:

1. extend the time line for protection of trees less than 2.5 metres in diameter for a minimum of an additional 12 months;

2. expedite the implementation of local government urban trees PARs by:

- processing urban tree PAR statements of interest as a priority;
- encouraging the use of interim controls under section 28 of the Development Act; and
- supporting local government in the preparation of urban tree PARs through technical assistance;

3. review urban tree policies subsequent to the initial 12 month implementation period, considering effectiveness of policies and implementation, alternative legal mechanisms and support for local government in data collection, policy preparation and enforcement.

In closing, I commend the minister for already responding to the first recommendation by gazetting regulations to extend this period for an additional 12 months. This is a very complicated area and quite a difficult issue. I thank all those involved, from the minister and staff right down to local government bodies and officers for their understanding. I look forward to the minister's response to the additional recommendations in this report.

Motion carried.

LIVE MUSIC INDUSTRY

The Hon. DEAN BROWN (Minister for Human Services): I lay on the table the ministerial statement concerning live music in hotels made earlier today in another place by my colleague the Minister for Transport and Urban Planning.

STATUTORY AUTHORITIES REVIEW COMMITTEE: ANIMAL AND PLANT CONTROL BOARDS AND SOIL CONSERVATION BOARDS

Mr VENNING (Schubert): I move:

That the 26th report of the committee, on the Inquiry Into Animal and Plant Control Boards and Soil Conservation Boards tabled in the Legislative Council on 11 April, be noted.

Just to remove the confusion, I point out that this committee would not normally table its report in this House. I have picked up this motion as a private member of this place and am addressing it here. It is really not under committee business, but I am happy to debate it here. I am very pleased that this report makes recommendations similar to those for which I have been campaigning for the past 15 or so years on this matter. I have always advocated that these two individual boards should amalgamate and operate as one unit to allow for rationalisation of processes, because there was always a duplication of services within these two boards. I gave evidence at the inquiry conducted by the Statutory Authorities Review Committee. I told the committee of my experiences as a member and Chairman of a pest plants board and a vertebrate pests board. I quote the evidence that I gave, as follows:

I was a member of these boards for 10 years, both the Pest Plants Board and the Vertebrate Pest Board. I was chairman of those boards for six years. We did amalgamate those two boards and operate them side by side with the same administration. The bureaucrats in Adelaide would not let us do it so we did it at the local level. In 1986 or 1987 [I am not sure which] we amalgamated those boards and formed the Animal and Plant Control Board, which I chaired [as the local chairman]. The next step should have been to include soil boards. I always believed that was commonsense because there was a duplication of the service. The officers could have managed plant problems in the winter period, soil problems in the summer period and animal problems in both seasons. That would have saved two officers, two cars and two administrations. I always thought that it was a waste and that it was confusing.

Evidence was given that disagreed with my stance on the matter then—in fact, quite some quite strong disagreement—and that was fine, because everyone is entitled to their own opinion. We have been battling bureaucracy ever since. I am very pleased that the report tabled in the other place has made recommendations along lines similar to those that I have always proposed. The report is quite comprehensive, covering some 150 pages, and I certainly recommend the report for members' reading. As the chair of another committee, I pay the committee the highest praise, because it is a wonderfully written report, a good example for any committee's professional officers, particularly the research officers, to follow in terms of knowing how to write a report. The references in it are excellent and extremely easy to read, and the presentation is very professional. I draw attention to page 142 of the report, where the recommendations are made. There are 16 in total, and the first two listed are as follows:

1. That soil conservation boards and animal and plant control boards should be amalgamated over a five year period. Each amalgamated board should include all existing board members, with the membership of the amalgamated board to be rationalised over a two year period. This would require legislative change.

It is all very interesting and they are worthwhile findings. The recommendations continue:

2. That the amalgamated boards should be known as 'Land Management Boards.'

I certainly do not have a problem with that because that is exactly what they are. This is a term we used years ago, a long time before we ever had these boards in place. I do not want to say that I told you so, but finally, after years of effort, I am now seeing some light at the end of the tunnel on this issue. I strongly support this report and certainly commend it to the minister for some positive action to be taken in the light of the findings and the recommendations.

I also publicly acknowledge the support of Mr Arthur Tidemann, Chairman of the commission at the time. Unlike the other bureaucrats, he could see the merits of the argument. There are still opponents to this amalgamation, but far fewer than there were 20 years ago. It was a commonsense move, especially now that we will have trouble getting the numbers to sit on these three boards—the soil conservation board, the animal and plant control board, and now also the landcare board. Funding was always a problem, as the two original boards were funded differently. If the three levels of government were locked into the current arrangement, it would work very well.

It is important that local government be involved, as it is closest to the action, and should always have representatives on these boards. Certainly it is timely that the committee has come up with these recommendations, and I hope it is not the last we see of this issue. My involvement all those years ago was as a representative of local government. I see its continuance as important and imperative to the future.

It is also interesting to note that the actual mechanisms of the recent draft Integrated Natural Resource Management Bill look to include the animal and plant control boards and soil conservation boards into its INRM groups. I know that this bill has not yet reached this House. I am trying to research it as much as I can, even though it is still a little way off. It certainly contains some very interesting information. These INRM groups are part of the mechanism chain of the bill which consists of the ministerial board, made up of three ministers and the INRM regions and the groups—all very interesting.

I will be interested to talk to the three ministers concerned, because I do not want to see an unnecessary and expensive bureaucracy formed to administer this initiative. I can see the benefits of this bill, with some reservations, but we should be able to manage the process with the existing resources, whether we use current structures or look to the redeployment of skills.

I take on face value the statements made that the proposed legislation seeks to provide a consistent approach to natural resource management bodies, established under different acts, for example, catchment water management boards, soil conservation boards and national parks, and so on—the list goes on. However, we should be careful that we take a measured approach to this over-arching departmental triministerial initiative. It is quite unusual, and I do not know of too many occasions where this has happened.

I also note a statement made in the explanatory paper issued on this bill that there is increasing community support for integrated natural resource management, with interim committees covering most regions of South Australia already formed. The INRM offers significant benefits such as reduced risks, cost savings and improved public involvement. Without INRM, we are unlikely to achieve the sustainable use of resources.

That is a significant statement, because the feedback I have received has not been completely positive. Will we see cost savings? I certainly hope so: I hope that we do not see the opposite and that we see improved community involvement. I will talk to the ministers about this privately because, to my way of thinking, we have it pretty well covered now

with many of the statutory and community boards out there on the ground. The motion that I have moved today certainly supports and encourages open, clear-thinking debate on issues relating to the management of our natural resources, and I simply urge members to support it.

Certainly, I will be watching what happens when this bill involving the INRM comes to the House. It is rather uncanny, or just a matter of circumstance, that this bill is being introduced into the House at the same time that this committee has handed down its report. I hope that one has encouraged the other and that, as a result of the action and the findings of this committee, when this bill involving the INRM is introduced into this House, we set up an organisation that will further the most important aspect of our state's resources, that is, the management of our land and our soil resources. It is a very interesting subject, and one that is close to my heart, and I certainly will watch its progress with much interest. I commend the motion to the House.

Mr LEWIS secured the adjournment of the debate.

PUBLIC WORKS COMMITTEE: BIONOMICS LIMITED

Mr LEWIS (Hammond): I move:

That the 153rd report of the committee, on the Bionomics Limited—New Research Laboratory and Office Facilities—Status Report, be noted.

Bionomics Limited is an Adelaide based biotechnology company created as a commercial spin-off from the Women's and Children's Hospital and the Hanson Centre for Cancer Research. It was incorporated in 1996 and publicly floated in December 1999. It employs 28 people. Bionomics is concerned with the isolation and study of genes involved in the onset and progression of disease. Its research and development is in the areas of epilepsy and breast cancer, and it intends to sell or licence validated drug development, gene therapy and diagnostic development.

The company's scientists were the first in the world to discover a gene associated with epilepsy, and they have maintained that world leadership position. Other scientists working in the breast cancer area were the only Australian scientists to participate in the human genome project, and this has given Bionomics a significant global leadership position with respect to the genes associated with breast cancer. The large, poorly-met demand for treatments for these diseases means that validated targets have excellent commercial potential and offer significant health benefits. Bionomics leases laboratory space in the Thebarton bioscience precinct. However, its lease expires on 1 March 2002, and it cannot be extended. Given the absence of such specialised facilities in the marketplace, the company needs to relocate to another state, unless a purpose-built laboratory facility is made available to it here. That means that such a facility would have to be built.

The committee accepts that support for the commercialisation of Bionomics' intellectual property will do five significant things: first, it will bring substantial benefits through income generation, growth in investor funds and employment opportunities for local bioscience graduates and postgraduates; secondly, it will make limited surplus laboratory facilities available during the first two or three years for other early stage companies under the subleasing arrangement; thirdly, it will support the development of a biotechnology industry in South Australia by focussing attention upon the state's capability and acting as a catalyst to attract other investment, other scientific development and other highly skilled jobs into the South Australian economy; fourthly, it will facilitate rapid employment growth in the bioscience precinct, which will provide a better collegiate atmosphere in which these scientists will work, thus enhancing the rapidity with which they develop new techniques and understanding of the application of those techniques through the knowledge they represent to the processes under their scrutiny; and, fifthly, it will provide financial benefits to the Women's and Children's Hospital and also to the Hanson Centre for Cancer Research through the licensing agreements and opportunities to commercialise research originating in public sector hospitals.

An economic evaluation over a five year time frame, based on a capital cost of $6.27 million, estimates the additional gross state product associated with the project in net present value terms, relying on a discount rate of 7 per cent, to be $21 million. The associated total employment effects are a real impact benefit and are estimated to be between, at the lower end, 73 jobs and, at the upper end, 324 jobs. In anyone's language, Mr Deputy Speaker, that is a significant benefit to South Australia, I am sure you would agree, notwithstanding the other benefits.

The project involves the construction of a purpose-built research laboratory and the associated office facility needed by Bionomics in the Thebarton bioscience precinct on land that the ICPC will purchase from the Minister for Industry and Trade. The proposed building footprint maximises the use of the site, and it will meet Bionomic's growth requirements over the next five to seven years by accommodating 96 people. Increases beyond this number are likely to remain located with research teams under separate leasing arrangements at the Women's and Children's Hospital. A two storey concrete and steel framed building of 2 439 square metres with undercover car parking is being designed and constructed to the standards of Australia's Therapeutic Goods Administration and the United States of America's Food and Drug Administration. Those requirements are very important, and need to be met with considerable stringency, for reasons I will give in a moment. The building has been designed to withstand normal dead, live, wind and earthquake loads required by the relevant Australian standards.

The arrangements involving the land acquisition and the provision of the facility include Bionomics being granted occupancy of the property under the terms of the deferred purchase agreement for a term of 10 years, with two significant elements. The first is a deposit of 15 per cent of the total cost of the capital works to be paid on signing the deferred purchase agreement; and the second is the principal and interest repayments over a 10 year period for the balance of the final capital cost of the project.

DIT (the Department of Industry and Trade for those who do not understand the acronym) is satisfied that Bionomics will be able to repay the loan. The committee accepts that the risk is considered to be low that Bionomics' commercial success and space requirements will not fully utilise the proposed new facility. There is a high demand for state-of-the-art research facilities in South Australia, and the very few existing unused facilities are of a low standard. The number of start-up companies and research groups seeking to join the existing cluster at Thebarton exceeds the capacity of the facilities available to provide the necessary floor space for them; hence the department is well justified in its opinion that it will not have a white elephant on its hands in the highly

unlikely event that Bionomics fails. Many of these other companies have the capacity to lease or purchase the building if it were to become available.

As a further measure to ensure against the risk of Bionomics being unable to fully utilise the facility, the building has been designed so that two different tenants could occupy it on two different levels. The committee is told that this project will be delivered with fees that are substantially lower than is usual, because the project manager—that is, the primary consultant, construction manager and architectural functions—has been incorporated within the one office. The combination of these functions in the one office eliminates considerable duplication of work ordinarily undertaken if they were split, and therefore it affords a much tighter, more direct control over the subcontractors doing the work on site. The Industrial and Commercial Premises Corporation will closely monitor the potential for conflict of interest that might arise by combining these roles.

The Public Works Committee recommends to the House of Assembly that it should note this status report, bearing in mind all those factors to which I have drawn attention.

Ms THOMPSON (Reynell): I rise to offer bipartisan support for this project and for the bioscience precinct in which it is located. The project will enable Bionomics to focus its activities and its capital on the research which will so much benefit this state, our community, and indeed the world community, if it is successful. Bionomics is an important contributor to research in the fields of breast cancer and epilepsy. I believe that we all recognise the need for groundbreaking research in these areas and wish it every success, as it would indeed be wonderful to see those two very dreaded diseases brought under control, if not eliminated.

Bionomics has already had some success in this area. The committee was told that the company's scientists were the first to discover a gene associated with epilepsy, and they have maintained that world leadership position. Other scientists from the company working on breast cancer were the only Australian scientists to participate in the human genome project, and this has given Bionomics a significant position with respect to the genes associated with breast cancer. I believe that everyone in this House would join with me in congratulating Bionomics on those successes so early in its life as a company.

Bionomics believes that the funds it has raised should be focused on its research in this early stage of the company's life rather than on investing in a building, so the ICPC has got behind it and is building the space that it will require and enabling Bionomics to pay this off gradually in a managed capital flow manner. At the moment, Bionomics occupies premises in the GroPep building, which is opposite to where its new building will be; and it is fortunate that the consultants who developed the GroPep building are working on the Bionomics building, as this should mean that the new facility will be very much suited to Bionomics' needs.

It is interesting to see that the Bionomics building is proposed to accommodate 96 staff and, if fulfilled, it will be an extraordinarily successful venture for an organisation which essentially had its genesis in our public hospitals and which will soon be a commercial operation employing 96 staff. This is something that we all welcome, and we congratulate the managers and the board of Bionomics, as well as the workers, who, of course, are the basis of this success, on their achievements to date. With those few brief remarks, as I have previously commented on a number of issues involving the project justification and the project processes, I am happy to support the committee's report.

Mr LEWIS (Hammond): I am surprised on two counts: first, that there is such a disinterest on the part of members in general, but explicitly the government, in this project. I would have thought, given all the things that the Premier and several ministers have said about this state needing to be seen as smart in its technologies, especially in this domain of technology, that they would be here to say so and to explain, and, indeed, trumpet the success that South Australian students, graduates and now business people are having in these endeavours. Secondly, what that really says is that the government does not care about parliament; does not think that parliament is relevant; and does not believe that parliamentary debate contributes anything to public understanding of what the government is doing and what we in a bipartisan way have endorsed.

Given that we are a population of only just over one and a half million people, this enterprise is pretty clever; this is pretty smart; this is something to crow about; and this is something about which every member ought to be attempting to say something. It is something on which every member ought to be complimenting those who are involved in the industry at large, and in this enterprise in particular. I say that not only because of what we want to encourage others to do where if we find excellence we should reward it and where we have not yet found it we should encourage it, but I assume that they would want to be associated with the fact that here we have achieved it, and that it has such outstanding prospects of success that will bring great credit to the state and to the people who are doing the work.

If we cannot take parliament seriously in performing that role in the wider community, then I wonder why the rest of the community would want to take us seriously as members in this place. It does not help the reputation of the institution of parliament when members simply ignore their responsibilities, which we pray every day we will discharge properly and which we swear at the beginning of every parliament we will undertake in the interests of the welfare of all South Australians. I am astonished and dismayed—

Mr Wright interjecting:

The DEPUTY SPEAKER: Order!

Mr LEWIS: —that the government treats with some disdain the parliamentary process, the people involved in this business, Bionomics, and the people involved at large in this industry, by simply not bothering to be here to commend any of them for what they have achieved.

Motion carried.

PUBLIC WORKS COMMITTEE: GLENELG WASTE WATER TREATMENT PLANT—ENVIRONMENT IMPROVEMENT PROJECT

Adjourned debate on motion of Mr Lewis:

That the 149th report of the committee, on the Glenelg Wastewater Treatment Plant—Environment Improvement Projected, be noted.

(Continued from 2 May. Page 1427.)

Motion carried.

PUBLIC WORKS COMMITTEE: LE MANS TRACK

Adjourned debate on motion of Mr Lewis:

That the 134th report of the committee, on the Le Mans Track Project—Final Report, be noted.

(Continued from 4 April. Page 1301.)

Motion carried.

PUBLIC WORKS COMMITTEE: QUEEN ELIZABETH HOSPITAL REDEVELOPMENT

Adjourned debate on motion of Mr Lewis:

That the 138th report of the committee, on the Queen Elizabeth Hospital Redevelopment—Final Report, be noted.

(Continued from 30 May. Page 1697.)

Ms THOMPSON (Reynell): As you will notice from the *Notice Paper*, sir, this matter of the Queen Elizabeth Hospital has been before this parliament for a very long time now, the report having first been spoken to on 15 November last year, but that only tells a small part of the story. In fact, the matter first came before the Public Works Committee in February 2000. However, it came in such a sloppy way that the committee was unable to deal with it.

The proposal brought to us did not indicate what the future services of the hospital were to be; it was very vague in terms of what the building they were proposing to build was to do; and no details were provided about the facilities to be included in the building. In fact, all we had was a bit of a building outline and where it was to be located on the site.

When questioning the project proponents, we also found that virtually no consultation had taken place with either the staff of the hospital or the community. We suggested that they might like to come back to us at a later date with a proposal that had some substance. They came back to us in September—some seven months later.

Recently, we have read in the papers about the concern being expressed by residents' groups in the western suburbs about the future of their hospital. I know that some are surprised that this concern should be expressed given that, in fact, after a series of announcements of redevelopments, something is happening. I think there have been only nine announcements of redevelopments that the residents have had to put up with! I can understand why they might be a little sceptical about whether or not they are really getting the services that they need in the western suburbs. It is easy to be sceptical not only because of the series of announcements that came to nothing but also because of some of the documentation that came to us, even the second time that the project proponents appeared before the committee.

When I look at the objectives of the master plan for the Queen Elizabeth Hospital, I am really surprised to see that the first item listed says:

· improve patient and visitor amenity through the provision of improved patient waiting spaces and support facilities and improved staff support facilities;

I do not really think that waiting spaces are what people in this community want in their hospitals. They want facilities: beds, surgeries, operating theatres and ancillary services where they can receive occupational therapy services, speech pathology services, physiotherapy, and so on. Waiting spaces appearing as the first item of the objective of the master plan is not really what I expect a hospital redevelopment to be about. It is inanities such as this that give rise to suspicion from the residents of the western suburbs. When do we see again something about them and their health care? The next dot point says:

· improve opportunities for changes to clinical practice through design of buildings which optimise functional relationships and provide for the use of new technology;

That sounds reasonably good. Again, we hear about clinical practice but we do not hear about improved opportunities for the care of people. It is the practice, not the people, that gets the emphasis. It then goes on with something that is reasonable:

· improve occupational health and safety standards through the construction of buildings which are compliant with current health industry standards and expectations;

That is fine. It continues:

· achieve fire safety standards and provision of safe egress;
· improve disability access through the provision of appropriately located ramps and drop off and pick up areas;

These improvements are all fine, but they are not patient and community centred. They do give the staff a bit of a run, but they do not really talk about the staff as skilled and caring people who are working in a very demanding environment. They are focused on buildings, safety ramps and fire provisions; they are not focused on people. So, it is no wonder that the people of the western suburbs are still extremely sceptical about what sort of health care will be provided for their community in the redevelopment of the Queen Elizabeth Hospital.

At the time that we were talking with the project proponents, it was very unclear what services would be provided by the hospital, and that still seems to be the case. People are still worried about the extent to which obstetric care will be available and the extent to which there will be services to meet the special needs of people in the western suburbs.

Many studies conducted over the years have shown that a number of industrial risks are associated with the western suburbs. Unfortunately, industrial accidents, poisonings and industrial violence are three areas that feature disproportionately in the health care needs of the people in the western suburbs. The environmental unit at the Queen Elizabeth Hospital has been able to focus on these issues in the past. I am sure that the people in the western suburbs want to know and be absolutely certain that it will continue. But how can they be confident when they have heard about this redevelopment about nine times before (if it is not nine times, it would be seven times, which is not a lot of difference) and they still do not really know what services will be provided?

As I have said, the lack of consultation with the community and the staff was something that really disturbed the committee when the project proponents came before us in February 2000. As a result of the committee's concern about the inadequate consultation, a consultancy was established through Dr Kathy Alexander. As a result, there was consultation with the northern and western divisions of general practice, the cities of Charles Sturt, Playford and Port Adelaide Enfield, various patient and staff groups, medical staff societies at the Queen Elizabeth and Lyell McEwen hospitals, Transport SA, and residents surrounding the existing Queen Elizabeth Hospital site. Anyone running a health service with any degree of competence would not need to come to the Public Works Committee to be told that they needed to consult with these sorts of people and stakeholders in our hospitals.

Our hospital services have been mismanaged by this government from day one. They were mismanaged when it outsourced the Modbury Private Hospital; they were mismanaged when the government entered into an agreement to development a private hospital at Modbury, which was not

possible because it is simply not feasible and not warranted; they were mismanaged when the government thought it was its responsibility to provide a private hospital at Modbury, and that was contained in the submission put to the Public Works Committee in relation to the Modbury Hospital redevelopment.

It is my understanding that it is the private sector's responsibility, not that of the government, to provide private health care. But the mismanagement of the health care system by this government has led it to engage in strange notions about what is its responsibility. It is the responsibility of this government to provide health care to the residents of the western, southern, northern and eastern suburbs, and of the centre, and it is not doing a very good job of it. The way the government managed the Queen Elizabeth Hospital redevelopment just illustrates for all to see how poorly this government is managing our health care system. However, with the help of the Public Works Committee and the valuable input of the people who were finally consulted, we have something that looks as though it should—on the physical side, in any case—provide a better amenity for the people of the western suburbs.

Important changes occurred as a result of the consultation. The bed plan went from being 50-bed wards to about 32-bed wards. This is a significant difference for patients and for staff. It is no longer a two-storey building; it is now a three-storey building. It is sited differently. It is sited in a garden to provide a pleasant visual amenity for staff and, more importantly, for patients. There is access for patients from ground floor accommodation to gardens where they can sit peacefully and engage in conversation with their friends, carers or anyone else. What we have in the end is looking pretty good. However, I can completely understand why the residents of the western suburbs do not believe it.

Time expired.

Mr De LAINE (Price): I support wholeheartedly the comments made by my colleague the member for Reynell. Given that I am a western suburbs member and that my electorate is a major catchment for the QEH, I have been very frustrated by and made sick and tired of this redevelopment being announced seven times by this government—

An honourable member interjecting:

Mr De LAINE: Seven, maybe more. I know from going past the place that some fairly extensive demolition work has been undertaken in recent times, ready for the new development. I also understand that work has either started or is about to start on the redevelopment. However, as the member for Reynell said, the plans look good. I applaud the fact that this hospital is being redeveloped. I have talked to people and heard their views, particularly at the public meeting on 24 June where many people came along and expressed their views. They expressed the view that the rose gardens and the more modern and smaller wards were very nice. However, that was not the important thing. What the people want is beds.

Stage 1 of the redevelopment is to replace 200 old beds with 200 new beds. Given that this hospital has been allowed to run down over recent years, there will be a retention of only about 360 beds, which is nowhere near enough. We need to go back to the days when there were about 600 beds at the hospital. It is a major hospital in the western suburbs, and more beds, doctors, nurses, ancillary staff and equipment are needed. These are the problems facing the hospital, and this redevelopment will do nothing really. It will make it a look a lot better, and it will be more comfortable for the people who are admitted and lucky enough to get beds, but it will do nothing for the waiting lists and the situation in general at this hospital. As I said, we need more doctors, nurses, staff and equipment—not just new beds.

The money should have been spent more on providing additional beds, albeit at a lesser standard. At this stage, it would have been better to have left the old buildings and to have retained those existing 200 beds and spent the money on additional accommodation, that is, more beds. All in all, it is good that money is being spent there, but it is being spent in the wrong way. It does not address the main problem there—that we need more beds and more services for people in this area to give them confidence that the hospital will stay and provide a whole range of much needed service across the board. We know that some services have been downgraded, and that has been a worry to the local people. I take my hat off to the minister; he did attend the public meeting on 24 June and he copped a fair bit of flak but I respected him for turning up there. He gave his view as to what the redevelopment means. However, it is too little and later than it should have been, and the money is not being spent very wisely. It needs a lot more money than this spent on it and certainly not over the next nine years, in about four stages, as has been mooted. It needs to be spent now.

The number of beds should be increased to more than the 360 there now. We need about 500 or 600 beds for the enormous need in those western suburbs. We should bear in mind that in the western suburbs the incidence of heart and respiratory disease and diabetes is through the roof. In particular, heart problems are prevalent in people of 60 years of age and over. We should also bear in mind all the research work that is done at this hospital. It is a great hospital.

I take my hat off to the staff who keep it running. It keeps running only because of their dedication. Major hospitals interstate run at an average efficiency of about 85 or 87 per cent. The cutbacks of this government have meant that for the last seven years at least the QEH has been running at 98 per cent. It is an amazing percentage for staff to operate at, but it is unsustainable in the long term. Staff are under stress, and the whole situation suffers. As I said, I applaud the government for spending money there, but it is not being spent in the right way. We need more beds for more people.

Mr WILLIAMS secured the adjournment of the debate.

ECONOMIC AND FINANCE COMMITTEE: INDUSTRY ASSISTANCE

Adjourned debate on motion of Hon. G.M. Gunn:

That the 31st report of the committee, on South Australian government assistance to industry, be noted.

(Continued from 8 November. Page 385.)

Mr HAMILTON-SMITH (Waite): In the absence of the member who has the call on this matter, I would like to speak to it. I rise to address the matter of this report by the Economic and Finance Committee on government assistance to industry, because it is one of the most important issues facing this government and any government in the years ahead. How do we create the economic growth in the state so that we can then afford to pay for the social services, the health, the education and all the other benefits the community expects us to fund and to provide? Governments around the country promote growth within states by the selective and very well

targeted funding of industry in order to do things like attract industries from other states; prevent industries from fleeing to other states; and further stimulate companies so that they can grow, create jobs, create growth and generate tax revenue that can then be spent on services. The committee of which I am a member looked into this exhaustively and made quite a number of recommendations. In particular, it raised issues about how we target our industry assistance.

It is that specific point that I want to address, because our philosophy should be to stimulate innovation. We should stimulate industries that will grow like a snowball and gather other supporting industries and ride the wave of new economy growth in such a way that they are likely to snowball into more jobs, more growth and more tax revenue for the citizens of South Australia and, therefore, enable us to provide better services. One of the issues that came out in the report, and which I fully support, is that we need to look very carefully at the industries that we support.

We have to be careful that we do not fund yesterday's icons, and that we do not fund industries that are non-innovative and non-competitive. We must recognise that we need to fund South Australian companies that are showing by their approach to innovation, by their up-take of technology and new economy methods and practices, that they will grow and thrive. We have to be careful that we do not shove money into holes to prop up industries that will simply not be viable in the long term for South Australia.

For instance, we cannot prop up footwear and clothing industries that are competing with offshore bases of manufacture—places such as Fiji, Pakistan or Hong Kong—where the cost of labour is so cheap that they simply bowl us over in terms of production costs. We really have to use our brain power; we have to harness that fabulous resource that we have, the human talent in South Australia and our ability and propensity for innovation and entrepreneurship, and use our industry assistance funding to promote that potential.

We need to do that by harnessing the centres of innovation, such as our universities, the CSIRO, DSTO, and the medical research centres in our hospitals, and linking them and marrying them together with industry. That should be done not in a simple knowledge/nation type of way that has been put forward by the opposition, where we pursue education for education's sake, but in a more practical way where we promote innovation and learning in targeted, relevant and applied ways to industry, so that people in industry are vitally interlinked with what is going on in our centres of innovation, and people in our places of learning and centres of innovation are vitally interested in what is going on in industry.

I support the committee's recommendations in this respect: that we ought to look at the targeting of the taxpayers' funding in such ways as to create this innovation. During evidence to the committee which was received from a vast range of inputs, it came out that there are examples here in South Australia of such successes. I am thinking in particular of DSpace, a company that I visited out at Technology Park recently. DSpace is in the business of satellite communications technology. It breaks down smart communications coming from satellites that are very weak and have very low power, and uses smart technology on the ground to sharpen up those communications, clarify them and then send them on to other land-based destinations.

That means that you can have a smaller satellite with less power. It is cheaper to get up in the air, and technology on the ground is used to do the hard work. They have developed a relationship with the University of South Australia where a section of the university and a section of the company are working together on their innovation and technology. They have created an interdependent relationship. That means that, if somebody wants to go and buy DSpace and move it, they cannot take it away because it is linked to the university. These are the sorts of relationships that we should be creating.

From a purely parochial South Australian point of view, it means that companies linked with centres of learning and universities are likely to stay here, to continue to create jobs, development and opportunities here rather than be bought off, moved interstate or overseas and taken away from South Australia. These are the sorts of relationships that we ought to be forming. I commend the report to the House and hope that it will be fully supported, because it points the way towards the future for South Australia. Let us have less of this throwing money at yesterday's industries and more of looking at tomorrow's industries.

Debate adjourned.

LAW REFORM (CONTRIBUTORY NEGLIGENCE AND APPORTIONMENT OF LIABILITY) BILL

Second reading.

The Hon. R.G. KERIN (Deputy Premier): I move:

That this bill be now read a second time.

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

Leave granted.

This bill will change the effect of the decision of the High Court in the case of *Astley v Austrust* concerning the interpretation of section 27A of the *Wrongs Act 1936* of South Australia.

That decision provoked immediate criticism. All Australian States and Territories had a provision similar to section 27A. The matter was discussed by the Standing Committee of Attorneys-General and model provisions for a bill were developed. Acts based on, but not identical with the model have been passed in Tasmania, Victoria, New South Wales and the Australian Capital Territory and, since this bill was introduced, in the Northern Territory. Western Australia and Queensland have not introduced bills yet. Although the South Australian bill draws on the model, it was decided following consultation, to introduce a slightly wider reform.

The core of section 27A is as follows:

> *"(3) Where any person suffers damage as a result partly of his own fault and partly of the fault of any other person or persons, a claim in respect of that damage shall not be defeated by reason of the fault of the person suffering the damage, but the damages recoverable in respect thereof shall be reduced to such extent as the court thinks just and equitable having regard to the claimant's share in the responsibility for the damage:*
>
> The word "fault" is defined by section 27A(1) as:
>
> *"'fault' means negligence, breach of statutory duty or other act or omission which gives rise to a liability in tort or would, apart from this Act, give rise to the defence of contributory negligence.*

Section 27A was enacted in 1951 to reform the common law of tort. It allows the courts to reduce the amount of damages payable to a plaintiff if it is found that the plaintiff contributed by his or her own negligence to the loss in respect of which he or she is claiming damages. Where the plaintiff has been guilty of contributory negligence, the court is required to assess the full amount of the plaintiff's damages and then reduce the damages by such amount as is just and equitable having regard to the extent of the plaintiff's responsibility for the damage.

Although section 27A was enacted in South Australia in 1951, it was not conclusively settled whether or not the section was applicable in cases of breach of contract until the High Court's ruling in *Astley v Austrust* in 1999, reported in (1999) 197 CLR 1. The High Court by a majority of 4:1 ruled that it did not—it applied only to claims for damages for tort. The majority said that "*the history, text*

and purpose of the Wrongs Act make it clear that that Act was not intended to apply to claims for breach of contract.

Prior to *Astley v Austrust*, many legal practitioners had adopted the practice of treating section 27A as applicable to cases of breach of a contractual duty of care and many cases were settled or decided on that basis. There were some higher court decisions that supported that view as well as some that did not. Many thought that the weight of judicial authority supported the view that section 27A did apply, at least to cases in which the duty of care imposed by the common law and the duty of care under the contract were the same. The overwhelming response to the decision in *Astley v Austrust* from legal practitioners, academics and the insurance industry was that the statute should be changed.

The bill will do that. It will allow the courts to reduce the plaintiff's damages on account of his or her contributory negligence in any case of breach of a contractual duty of care, subject only to any agreement between the parties or other legislative provision to the contrary.

In addition, the bill will make the contribution provisions that currently apply only between tortfeasors applicable to claims for breach of contractual duty of care. These provisions were enacted in 1939 to allow a party who has paid, or who is liable to pay, damages to obtain contribution from any other liable parties. Courts have found that *Astley v Austrust* has caused difficulty in some cases in applying the contribution provisions of the *Wrongs Act*. This was raised by the Supreme Court of South Australia in December last year in an appeal in *Duke Group (in liquidation) v Pilmer & Ors (No2)*. This bill would remove that problem in cases in which there has been a breach of a contractual duty of care.

As the new provision that would be enacted by this bill will apply not only to claims in tort, but also to some claims in contract, namely claims for damages for breach of a contractual duty of care, they would be removed from the *Wrongs Act* and placed in a separate Act. Enacting contribution and contributory negligence provisions in a separate Act is not novel: it is the way the legislation of most other jurisdictions has been enacted.

The opportunity has been taken to redraft all these provisions, which currently comprise Divisions 1 and 2 of Part 3 of the *Wrongs Act*, to modern drafting standards and to remove some obsolete provisions.

The bill will not have retrospective effect. However, if the facts that give rise to a claim occur partly before and partly after the Act comes into force, the Act will apply to that case.

Some historical background, explanation of *Astley v Austrust* and examples will assist in understanding this bill.

The common law of tort was that people who claimed damages for a breach of a duty of care could not recover any damages if they had contributed by their own negligence to their loss. The claims of these plaintiffs were completely defeated by their contributory negligence, no matter how minor that fault was. For example, in a road accident case, a plaintiff who failed to keep a proper look-out was *not* entitled to *any* damages even though the main cause of the collision was the gross negligence of another driver speeding through a red light. This was seen as unfair.

In 1951 South Australia reformed this common law rule by enacting section 27a of the *Wrongs Act*. Section 27a was based on an English provision. It abolished the common law rule and substituted a provision that said the court is to assess the plaintiff's full damages and then may reduce those damages by such amount as is it thinks just and equitable having regard to the plaintiff's share in the responsibility for the damage.

The common law of contract operates differently. If the defendant is in breach of a duty to perform his or her obligations under the contract with reasonable care or due diligence, the plaintiff is entitled to recover full damages as assessed according to the law of contract without reduction on account of his or her own contribution for the loss suffered. The case of *Astley v Austrust* put beyond doubt the fact that this was not altered by the 1951 amendments to the *Wrongs Act*.

In breach of contract cases courts can sometimes use other means of ensuring that the end result is fair. For example, the amount of damages awarded to the plaintiff for a breach of contract could be affected by the rules relating to causation of damage, failure to mitigate damage (including failure before the breach) and remoteness of damage in contract. However, the courts' ability to do this in professional negligence cases is limited.

Contractual Duty of Care

Many contractual relationships include a contractual duty of care. This duty may be an express duty set out in a formal contract, or it may be a duty that is implied by the common or statute law into the contract. Contracts to provide services frequently include an implied duty to take reasonable care. For example, there is a contract between the taxi driver and the passenger under which the taxi driver agrees to carry the passenger and the passenger agrees to pay the fare and it is an implied contractual duty that the taxi driver will exercise reasonable care in performing his or her contractual duty to carry.

Parties to written contracts sometimes agree that a party is to observe a level of care that is higher or lower than reasonable care or agree to change the normal incidents of its breach, eg by limiting or excluding damages, providing a method of calculation of damages or providing for consequences other than damages. Often one party pays a substantial consideration for the other party undertaking to exercise a particular level of skill and care or for assuming certain risks. The *Wrongs Act* does not impinge upon this: it gives primacy to the contract over any claim in tort.

Common Law (Tortious) Duty of Care

Many contractual relationships nowadays also give rise to a separate common law duty to perform the contract with reasonable care and skill: for example, professional advisers to their clients; employers to their employees; building companies to their principals, taxi and bus drivers to passengers in their vehicles. Breach of this duty is a tort.

The duty of care imposed by the common law on professional advisers is the same as the duty of care implied into the contract. The extent to which professional advisers may vary their duties of care by contract may be limited by rules or ethics of the profession or legislation.

Statutory Duty of Care

In some cases, a further layer of duty is imposed by statute. For example, section 74 of the *Trade Practices Act 1974 (Cth)* implies into certain contracts for services a term that the services will be rendered with due care and skill. The *Occupational Health, Safety and Welfare Act* (SA) imposes on the employer and the employee a statutory duty of care. Breaches of these statutory obligations give rise to civil liability to pay damages for injury or other harm occasioned by the breach. Sometimes the statute prohibits the parties from contracting out of the statutory duty.

Multiple Duties

When the plaintiff believes that the defendant has breached two or more duties owed to the plaintiff, then the plaintiff can sue on any one or more of them and elect to take judgment in whichever cause of action gives the remedy most beneficial to the plaintiff.

Astley v Austrust is an example of this. Austrust Limited, a trustee company, proposed to become the trustee of a commercial venture. Mr Astley, a legal practitioner, had a general retainer to advise Austrust about transactions into which it proposed to enter. Austrust failed to make any enquiries about the commercial soundness of the venture, but positively assured Astley that the venture was commercially viable. Astley did not advise Austrust about the desirability of including in the trust deed a clause excluding or limiting Austrust's liability to beneficiaries of the trust. Austrust entered into the venture, which soon failed. Austrust became liable for losses that exceeded the assets of the trust. Austrust sued Astley for damages alleging (a) that Astley had breached his implied contractual duty of care under his retainer to advise Austrust and so was liable for damages for breach of contract, and (b) that he breached his common law duty of care to Austrust arising from the relationship of solicitor and client and so was liable to pay damages for his negligence.

The High Court's decision was as follows:

(1) There was an implied term in the retainer that Astley would perform his work with reasonable care and skill. (Contracts for services generally carry an implied term to this effect.)
(2) As a professional adviser, Astley had a concurrent common law duty to Austrust to exercise reasonable care and skill.
(3) A plaintiff is entitled to sue with respect to the same incident for both breach of contract and the tort of negligence.
(4) Astley was negligent and also had breached his contractual duty of care in not warning Austrust about its potential for liability. However, Austrust failed to take reasonable care to look after its own interests and was 50% responsible for the loss it suffered.
(5) Section 27a of the *Wrongs Act* applies only to wrongs (torts). It does not apply to breaches of contractual duty of care.
(6) Austrust was entitled to elect to take its judgment on the basis of Astley's breach of his contractual duty of care, rather than on the basis of his tort.
(7) Therefore Austrust could recover from Astley its full loss of $1.5 million. If it had been liable only in the tort of negligence, it would have recovered $750 000.

As mentioned earlier, this decision provoked immediate calls for law reform.

Some criticised the High Court's distinction between the duty of care imposed by the common law and an implied contractual duty of care as unrealistic in the context of the many minor oral contracts entered into with little thought by the parties about the terms. It is said that there is really no practical difference between the law imposing a common law duty of care and the law implying a term into certain contracts, and so the results of breach should be the same. Examples given include contracts of carriage between passenger and taxi driver, contracts for services entered into between doctor and patient or between handy man or woman and householder.

Some have criticised the assumption implicit in the High Court decision that parties are free to determine for themselves the terms of their contracts as unrealistic in the above type of case and as obviously wrong in those cases in which a statute imposes a contractual duty and forbids contracting out of the duty.

Some submissions received in response to the invitation to comment on the model bill prepared by the Standing Committee of Attorneys-General urged more far reaching reform than that which would have been achieved by the model bill or by this bill. It was suggested that the statutory provisions relating to contributory negligence should apply in all cases, whatever the cause of action. Also, it has been suggested that the contribution provisions should apply to all cases. At first glance this may appear to be a simple matter, but it is not. Other Australian jurisdictions have not changed their law to the extent suggested, although it is believed that they received similar submissions. There are obvious advantages in consistency between laws of Australian jurisdictions on these topics. Because of the complexity of the issues, a proper consideration of the wider reforms that some would wish this Parliament to make would require considerably more time. If the law is to be reasonably consistent across Australia, and it is obviously desirable that it should be, then the process would take even more time. In the meantime, this Parliament can achieve the moderate reform proposed by this bill.

The model provisions for a bill prepared on instructions from the Standing Committee of Attorneys-General were sent to several people and organisations, including the Insurance Council of Australia, the Law Society of South Australia, the South Australian Bar Association, the Deans of the Law Schools of Flinders University and the University of Adelaide, the Chief Justice, Chief Judge of the District Court and Chief Magistrate. The comments received were taken into account in further developing the policy for this bill and in the drafting of the bill.

The subject matter of this bill is legally complex and in some ways technical. It will affect many people who are involved in litigation in which damages are claimed in a wide variety of circumstances. The bill, as introduced into the Legislative Council, was sent to approximately 90 people and organisations with an invitation to make a submission or comment on the bill. Responses were received from 12 organisations and individuals. As a result of comments on the possible interpretation of the bill, some technical amendments to the bill were introduced and passed in the Legislative Council.

I commend this bill to the House.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This measure will be brought into operation by proclamation.

Clause 3: Interpretation

This clause sets out defined terms for the purposes of the measure.

Clause 4: Application of this Act

The measure will apply to—

(a) a liability in damages under the law of torts;

(b) a liability in damages for breach of a contractual duty of care;

(c) a liability in damages that arises under statute.

The measure will have no bearing on criminal proceedings and does not render enforceable agreements for indemnity that would otherwise be unenforceable.

Clause 5: Judgment does not bar an action against person who is also liable for the same harm

A judgment for damages against one person does not bar a further action against another person who is also liable for the same harm. However, the general rule is that multiple actions should not lead to greater rights of recovery or claims for costs. A court will have a discretion to provide differently if there are reasonable grounds for bringing separate actions.

Clause 6: Right to contribution

This clause sets out rules relating to rights and actions for contribution. A right to contribution arises if the other party is also liable in damages for the same harm. The contribution is assessed according to what is fair and equitable having regard to the extent of each contributory's responsibility for harm. It is possible to affect or limit a right of contribution through the giving of an indemnity or by contract. An employer cannot claim contribution from an employee except in a case amounting to serious and wilful misconduct.

Clause 7: Apportionment of liability in cases where the person who suffers primary harm is at fault

This clause confirms that contributory negligence does not defeat a claim, and sets out the process for dealing with cases of contributory negligence.

Clause 8: Transitional provision

The measure will apply to a cause of action that arises from an act or omission that occurs on or after its commencement. The Act will also apply to a cause of action that arises in part from an act or omission that occurred before its commencement and in part from an act or omission that occurs on or after its commencement.

Clause 9: Consequential amendments

Consequential amendments must be made to the *Wrongs Act 1936* and the *Survival of Causes of Action Act 1940*.

Mr De LAINE secured the adjournment of the debate.

GRAFFITI CONTROL BILL

Second reading.

The Hon. R.G. KERIN (Deputy Premier): I move:

That this bill be now read a second time.

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

Leave granted.

This is a bill for an Act to take various measures to assist in the prevention of graffiti vandalism in the community.

Graffiti vandalism makes people angry and is annoying. It has cost implications, both financial and social.

This bill builds on a number of successful initiatives, implemented mostly at the Local Government level and promoted and supported by the State Government, to prevent graffiti vandalism. The Attorney-General's Department Crime Prevention Unit supports a number of strategies through the Local Crime Prevention Committee Program.

The Attorney-General's Department has recently provided $50 000 to local councils and $15 000 to Neighbourhood Watch groups across South Australia to help them to implement innovative anti-graffiti strategies. From this money grants have been awarded to 19 local councils, on a dollar for dollar basis, targeting successful methods of reducing or preventing graffiti, and to 35 Neighbourhood Watch groups.

Significant funding has also been provided to KESAB to implement strategies at a State-wide level to assist local graffiti prevention work, including working with the private sector and schools around graffiti prevention and other measures such as the Code of Conduct relating to the sale of spray paint cans. With this funding KESAB has also established a website with graffiti information, distributed a newsletter titled "Graffiti Gone" and undertaken various other proactive activities.

Funding of $66 000 has also been allocated by the Attorney-General's Department Crime Prevention Unit for a Crime Prevention Curriculum Development Project to further promote crime prevention curriculum within schools on the basis that development of responsibility within young students has the best prospect, in the longer term, of ensuring the prevention of graffiti.

Strategies adopted by councils under the Local Crime Prevention Committee Program have included establishing improved mechanisms for reporting and the rapid removal of graffiti, working with schools through theatre groups and the police 'law and community' program, investigation of 'free wall' space for mural work, working with council youth workers to devise 'inclusive' anti-graffiti strategies and drop-in programs for identified perpetrator groups. These strategies are achieving demonstrated results in terms of graffiti reduction.

However, while positive results have been achieved with many of these initiatives, legislative backing for some initiatives is now desirable to give added impetus to the graffiti prevention programs around the State.

Restrictions on sales of spray paint

In March 1996, the South Australian Government established a voluntary Code of Conduct for Graffiti Prevention that specifically targets retailers. The Code includes provisions for the display and sale of products used for the purpose of graffiti (including spray paint cans).

More than five years has now elapsed since the introduction of the voluntary Code. The voluntary Code has been supported by the retail industry generally, however some retailers, particularly small metropolitan and rural retailers, have not complied with the Code. As spray cans, often stolen, are the implements mainly used for graffiti purposes, it is now appropriate to impose a compulsory framework for the storage and sale of spray paint cans.

The bill prohibits the sale of spray paint cans to minors. Alternative proposals involving identification checks and register systems are open to abuse and would involve significant compliance and enforcement costs for questionable effect. They are not, therefore, supported by the Government.

As a consequence of this legislation, minors who require spray paint for legitimate purposes will need to ask an adult to purchase the goods on their behalf. This provision may cause inconvenience for some people in the community, however this is an unavoidable consequence of the legislation.

As identified in the voluntary Code, there is a need to restrict the storage and display of spray paint cans by retailers to prevent theft of the cans. The effectiveness of a ban on spray can sales will be reduced where the cans can simply be stolen. Retailers will be required to ensure that spray paint cans are kept in a part of the shop to which the public are not permitted access or in a locked cabinet such that they are inaccessible to the public without the assistance of shop staff.

Given that the major responsibility for graffiti management, including monitoring compliance with the voluntary Code, has to date been borne by Local Government, it is appropriate that councils should continue this role by having a part in enforcing the sale of spray paint provisions. The bill provides for the appointment of authorised officers by councils and conferral of powers on these authorised officers, thereby increasing the powers of councils with respect to enforcing the restrictions on the sale of spray paint.

Consequential amendment of the Summary Offences Act

This separate bill has been introduced to deal comprehensively with graffiti. Accordingly, the bill amends the *Summary Offences Act 1953* to remove the provisions relating to the offences of marking graffiti and carrying a graffiti implement from that Act and incorporate them into this bill. The provisions incorporated into this bill are in similar terms as those contained in the *Summary Offences Act*, apart from the provision relating to orders for payment of compensation by persons convicted of marking graffiti. The bill provides that the court, on finding a person guilty of the offence of marking graffiti, *must* order the convicted person to pay such compensation as the court thinks fit.

This amendment does not alter the provisions of section 85 of the *Criminal Law Consolidation Act 1935*, which deal with very serious property damage offences.

Power to remove graffiti from private property

During the course of preparing a report on Local Government responses to graffiti vandalism, the Crime Prevention Unit within the Attorney-General's Department identified various concerns held by councils regarding the removal of graffiti from private property. Rapid removal of graffiti is an important and effective strategy in graffiti prevention and reduction. It counteracts one aim of the offender which is linked to peer recognition, namely to position graffiti in a prominent place where it will be seen by many. Rapid response also dispels the sense of disorder which can evolve in communities where graffiti remains. For these reasons it is important that residents and businesses act responsibly to promptly remove graffiti from their property, or at least to report the presence of graffiti in their area.

Many councils, some with the assistance of local volunteers, are very proactive in terms of rapidly removing graffiti. For various reasons, many residents are unwilling or unable to remove graffiti from their properties and these councils, recognising the importance of rapid removal, are prepared to take the action required to remove the graffiti. However, some councils remain hesitant to remove graffiti from private property because of difficulties in gaining consent and concerns about potential liability.

Chapter 12 Part 2 of the *Local Government Act 1999* allows councils to order property owners to take specific action to clean up unsightly conditions on land. If the owner fails to comply with the order, the owner is guilty of an offence. The provisions then allow councils to undertake the work specified and recover the cost from the property owner. However, there are concerns that using these provisions of the *Local Government Act* in relation to graffiti would tend to criminalize the victims of graffiti.

Recognising the desirability of councils obtaining consent and entering into agreements with property owners to remove graffiti from their property, some action should nevertheless be taken to address the circumstances where councils wish to remove graffiti from private property but are unable to gain consent.

The bill provides that if a council decides that it should take action to remove graffiti that is on private property and visible from a public place, the council must give at least 10 days notice in writing of the proposed action and give the owner or occupier of the property an opportunity to object to the proposed action. This will ensure that a council does not inadvertently remove graffiti which may have been commissioned by the owner. If there is no objection, a council employee or person authorised by the council may enter onto the property and take action reasonably necessary to remove or obliterate the graffiti. When removing the graffiti, a council must take reasonable steps to consult with the owner or occupier in relation to the manner in which the action is to be taken and ensure that the work is carried out with reasonable care and to a reasonable standard.

To protect councils and their agents, for example, where property damage occurs in the course of removing graffiti from private property, councils and their agents are to be exempted from civil liability in relation to action taken pursuant to the bill. This is consistent with the corresponding provision in the *Local Government Act.* Without this protection, many councils are unwilling to remove graffiti from private property in the absence of consent and waiver by the owner.

Currently, some councils enter into agreements with property owners, particularly businesses, to remove graffiti from their premises for a fee. This bill is not intended to affect the arrangements already in place whereby councils assist ratepayers in carrying out their responsibilities to remove graffiti from their properties. Further, the bill is not intended to impose a duty on councils to remove graffiti from private property. The bill makes this clear. Property owners should not expect councils to absolve them of their responsibilities to keep their properties clean of graffiti and to help to prevent graffiti. The bill is intended to provide legislative support to councils where they resolve to remove graffiti from private property.

Consequential amendment of the Summary Offences Act

The bill amends the *Summary Offences Act 1953* to remove the offences of marking graffiti and possession of a graffiti implement, which have been incorporated into the bill.

I commend this bill to the House.

Explanation of Clauses

PART 1

PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Interpretation

This clause defines certain terms used in the measure.

PART 2

SALE OF SPRAY PAINT

Clause 4: Cans of spray paint to be secured

This clause provides that a retailer of cans of spray paint must ensure that cans stored in a part of the premises to which members of the public have access are kept in a securely locked cabinet or in a manner prescribed by regulation. Members of the public must not be able to gain access to the cans without the assistance of the retailer or an agent or employee of the retailer.

This offence is punishable by a maximum fine of $1 250 or an expiation fee of $160.

Clause 5: Sale of cans of spray paint to minors

This clause makes it an offence, punishable by a maximum fine of $1 250, to sell a can of spray paint to a person under 18. It is, however, a defence to a charge of this offence to prove that the minor was required to produce evidence of age and made a false statement, or produced false evidence, in response to that requirement so that

the defendant reasonably assumed that the minor was of or over the age of 18 years.

Clause 6: Notice to be displayed

This clause requires people selling spray paint from premises to display a notice advising people of the offence under clause 5 and that they may be required to show evidence of age. Failure to do so can result in a maximum penalty of $750 or an expiation fee of $105.

Clause 7: Appointment and powers of authorised persons

This clause allows councils to appoint authorised persons under section 260 of the *Local Government Act 1999* for the purpose of enforcing this Part and specifies the powers of an authorised person. Section 260 of the *Local Government Act 1999* requires such people to be issued with identity cards and deals with the liability of councils for the acts of authorised persons.

PART 3
GRAFFITI OFFENCES

Clause 8: Application of Part

This clause provides that this Part only applies to unlawfully marked graffiti.

Clause 9: Marking graffiti

This clause provides that a person who marks graffiti is guilty of an offence punishable by a maximum penalty of $2 500 or imprisonment for 6 months. In addition, a court finding a person guilty of this offence must order the person to pay compensation in respect of the damage caused.

Clause 10: Carrying graffiti implement

Under this clause it is an offence to carry a graffiti implement with the intention of using it to mark graffiti or to carry a graffiti implement of a prescribed class (which are defined in subclause (2)) without lawful excuse in a public place or a place on which the person is trespassing or has entered without invitation. The offence is punishable by a maximum penalty of $2 500 or imprisonment for 6 months.

Clause 11: Proof of lawful authority or excuse

This clause makes it clear that the defendant in proceedings for an offence of marking graffiti or carrying a graffiti implement will bear the burden of proving lawful authority or a reasonable excuse for his or her actions.

PART 4
COUNCIL POWERS IN RELATION TO GRAFFITI

Clause 12: Council may remove or obliterate graffiti

Under this clause a council may enter private property and remove or obliterate graffiti on the property that is visible from a public place if—

- a notice has been served on the owner or occupier of the property at least ten days prior to the action being taken; and
- the owner or occupier has not, within that time, objected to the action being taken.

The notice must give particulars of the action proposed to be taken by the council, specify the day on which it is proposed to take the action and advise the owner or occupier that he or she may object and that, in such a case, the council will not proceed with the action.

In removing or obliterating graffiti under this clause, a council must—

- take reasonable steps to consult with the owner or occupier of the property in relation to the manner in which the action is to be taken; and
- ensure, as far as is practicable, that the work is carried out expeditiously and in such a way as to avoid unnecessary inconvenience or disruption to the owner or occupier of the property and with reasonable care and to a reasonable standard.

No civil liability attaches to a council, an employee of a council, or a person acting under the authority of a council, for anything done by the council, employee, or person under this clause. The clause specifies that it does not impose a duty on a council to remove or obliterate graffiti. The clause makes it clear that the clause does not derogate from any power of a council under Chapter 12 Part 2 of the *Local Government Act 1999* or any other council power under that Act and is not to be taken to prevent or discourage a council from entering into agreements for the removal or obliteration of graffiti (whether for a fee or otherwise).

PART 5
MISCELLANEOUS

Clause 13: Regulations

This clause provides a power to make regulations for the measure.

Clause 14: Consequential amendments to Summary Offences Act 1953

This clause provides for the amendments contained in the Schedule.

SCHEDULE

Consequential Amendments to Summary Offences Act 1953

The Schedule makes consequential amendments to the *Summary Offences Act 1953*, by removing the offences in section 48 of that Act that will now be dealt with under Part 3 of this measure.

Mr De LAINE: Mr Deputy Speaker, I draw your attention to the state of the House.

A quorum having been formed:

Mr De LAINE secured the adjournment of the debate.

MEDICAL PRACTICE BILL

Adjourned debate on second reading.

(Continued from 3 May. Page 1468.)

Ms STEVENS (Elizabeth): I am pleased to respond to this bill on behalf of the opposition. The last time that the legislation was substantially revised was in 1983. I know that the profession has been very keen to have the reviewed legislation before us—in particular, the Medical Board and the Australian Medical Association have mentioned to me on many occasions that they are concerned that we get on with the job as soon as possible.

I understand that the bill regulates the professional activities for about 6 000 people, 1 500 to 2 000 of whom are medical specialists of various kinds, 200 or so of whom are medical students at one or other of the University of Adelaide or the Flinders University, the rest being general practitioners. The bill also has an important role to play in protecting the public interest and ensuring that South Australians have access to the highest quality medical care.

This bill is the third piece of legislation relating to a profession in the area of human services that has been updated following review under competition principles. The first was the Nurses Act; and the second act, which just recently passed through this parliament, was the Dental Practice Bill. The opposition notes the consistency that is evident in this piece of legislation, particularly in regard to the Dental Practice Bill. We believe that an overall consistency across the professions is important, bearing in mind that, if there are specific issues that apply to one profession that do not apply to others, those things need to be built in. But, overall, we believe that a consistent approach to all the professions is preferable, and we note in the bill before us now that consistency, particularly with the Dental Practice Bill, which is the most recent act to pass through this parliament.

I have not had an opportunity to read in detail the competition review of the legislation. I notice that the minister is having a conversation so I hope he will remember this when he speaks. I would like the minister to make sure that he does not forget this: I ask that when he sums up he remarks on the competition review and, in particular, any issues raised that have not been implemented in the legislation that is before us.

The delivery of health services today has changed dramatically since 1983 when the first act passed through this parliament. As well as the delivery of health services, so have the expectations of the community changed dramatically in relation to professional behaviour and professional responsibility. The old adage that ‘doctor knows best’ no longer applies. In the 21st century citizens demand more information, more transparency, more accountability and a partnership with health professionals in meeting their health needs.

The expectation of a greater level of accountability and the requirement to be scrutinised by the public that now applies to all professions also affects medical practitioners and medical specialists. This is important to ensure that the bond of trust that mostly exists between an individual person and their doctor goes further in establishing and maintaining a broader trust and confidence of the whole community in the medical profession. In welcoming and in generally endorsing this legislation, it is pleasing to see that the profession has acknowledged these issues as well.

There are significant challenges confronting the medical profession and all those stakeholders involved in health service delivery at this time. I will briefly mention some. My references will need to be cursory, because each one could justify significant analysis and involve significant time. So, my reference now will be necessarily brief.

The first issue is the delivery of quality care to people in need of medical attention and also the delivery of quality care in the broadest health sense. The minister referred in his second reading speech to the establishment of the Australian Council for Safety and Quality in Health Care and the five year national program to target improvement in a range of areas, including data collection and use; reporting mechanisms; opportunities for consumer feedback; clinical governance and accountability; and system redesign to create a culture of safety within health care organisations.

Each is part of a plan to improve the overall quality of our health systems in Australia. It is not before time. It is something that we need to address because, as has been mentioned in this parliament on a number of occasions and certainly in many other public forums, the issues of quality of care and adverse events are significant today in Australia—not only in Australia but other countries as well—and we need to develop systems that can give us the best possible outcomes in terms of health care.

At a state level the minister has established the Hospital Safety and Quality Council, which he says will complement the national project. I must say it is disappointing that it focuses only on hospitals, and I must say its outcomes to date have been unremarkable. In fact, I would say that, outside of the narrow group of people who would be working specifically within that body, the outcomes, if they exist, are not known about. I must say that it is also disappointing that South Australia is still the only jurisdiction in the country whose citizens do not have access to a comprehensive health complaints system. That is something that the opposition has championed and tried to effect over five or six years, but unfortunately we have been unable to move this government to catch up with the rest of the country.

Quality of care is of critical importance. It involves a wide range of practice initiatives, as I have stated before, and the national program is to be applauded. Quality of care impacts on all aspects of professional practice. Many health professionals are working to address the issues, and it is pleasing to see evidence of that when you look at the demonstration projects, the pilot projects, the initiatives of the Royal College of GPs and the initiatives of divisions of general practice, among others, in relation to addressing those matters.

The next issue I would like to mention is primary health care. One of the greatest challenges in the delivery of health services and ensuring better health status for all citizens is to effect a shift from a concentration on fixing things up after the fact to a greater effort in preventing ill health in the first place and keeping people well. This is where primary health care comes in: the need to focus at the grassroots level in communities on preventive and whole of life strategies to keep people well. General practitioners in particular are absolutely critical in this process. I had a flick through the web site of a couple of the divisions of general practice here in Adelaide earlier today and saw a range of programs with a primary health care focus, such as diabetes prevention, palliative care, coordinated care trials and mental health programs. There were many of them and I congratulate the participants.

A director of programs in one Adelaide metropolitan division said that many doctors are ready and willing to take the plunge and really embrace primary health care provision and their critical role in it. She mentioned the need for that to be supported by incentives that will enable doctors to work in this new way as part of teams of professionals and allied health professionals working with a community to make positive changes to the health status of that community. As I said before, I think one of the greatest challenges that governments face is to turn the focus onto a primary health care approach while obviously maintaining the care of those people who require acute care.

Another matter confronting the profession, and of course those charged with the responsibility for delivering health care, is that relating to the work force—a very complex area. There are issues both at national and state levels in relation to the number of professionals required, the mechanisms that regulate the awarding of provider numbers and the mechanisms of the colleges that govern the numbers in specialties. We are all aware of the shortage of specialists in certain areas and how that impacts on the sorts of services we can provide for the community.

We are aware of the situation in country areas where many communities just do not have access to a GP or a specialist, and the hardship that that then affords the people in those country areas in being able to access adequate health care. We are aware of the problems of lack of after-hours health care coverage for the community in both country and city areas. We know that general practitioners' concern about the delivery of safe quality care sometimes competes with the desire of governments to take pressure off public hospitals. There are many issues to be worked through in relation to that.

We also know the effect on the work force—and particularly the medical work force in our public hospitals—of the lack of funding and pressure on public hospitals, and we know that this has had a significant effect on the work force in these hospitals. In relation to that, I would like to quote from a submission provided to the select committee on public hospitals from the South Australian Salaried Medical Officers Association. I quote from their submission as follows. They state:

> First and foremost, public health services are built on the quality of their staff and continued high level performance depends on high morale. Our members report that the burdens of inadequate funding, increasing workloads, lack of staff and resources and lack of competitive rewards and recognition are all impacting on the level of morale. Enthusiastic, hard working, committed, quality staff are bending under the weight of demands.

They go on to outline some key indicators of that proposition. They state:

> All junior and an increasing number of consultant staff are employed on contracts of between one and five years duration.

They further state:

In some units no funds are provided from the budget for professional development but are only available from funds contributed by doctors or from external sources.

They mention that in South Australia consultants receive no conference leave support, apart from their annual Australasian conference leave. They also make other points but, generally, they are saying that there is huge pressure there which affects staff and people wishing to come and work in our public hospitals.

I have mentioned country services in relation to the work force. There are particular issues for professionals who choose to work in the country, and we need to address them in a creative way. They include isolation and working on your own, or in a very small team of people; not having ready access to training, development and support; having to move your family—your partner, your children—away probably from the metropolitan area, where you have lived, either in this state or in other states. All those issues affect health professionals, doctors and specialists included, in their choice of whether to go to the country to work. That is an ongoing challenge, and governments need to work with communities and all the stakeholders to find creative ways to improve the attractiveness of working outside the metropolitan area and particularly in the more remote areas of the state.

I want to briefly mention another issue, and that is the corporatisation of medical practices. People would be aware (and the minister also refers to this in his second reading speech) of the move for companies and private individuals—non-medical people—to manage medical practices, which is taking place at an increasing rate throughout Australia. In South Australia at present it is not happening as much as it is in some other states. However, it seems to be happening here less overtly and more by stealth. I am pleased to see that this legislation contains provisions to safeguard quality of care and to safeguard medical practices from influences that could be detrimental to the health interests of patients.

I wish to refer to the matter of medical ethics and the ongoing need for ethical practice. This is particularly pertinent at this time here in South Australia, with the recent events in relation to the retention and inappropriate use of body parts. It is a great challenge for us, because it is critical, to ensure that there is a bond of trust (which I previously mentioned in relation to transparency, accountability and being open to public scrutiny) between the medical profession, medical researchers and the community. Community confidence that ethical procedures are in place and are being followed is very important in order for us to move forward in terms of medical research, confident in the knowledge that what is being done is in the best interests of the community. This will involve discussions on a broad level between the profession, the community and all other stakeholders. That is just a little of the background against which this new legislation comes before this House.

I would now like to make a few brief comments in relation to the bill. The opposition supports the bill. We have circulated a few amendments but, generally, the opposition supports the bill and is pleased that it is now before the House. However, I would like to raise concerns in relation to the process by which the bill came into being. I was not involved in any of the consultation process related to the draft legislation and the process by which the bill came to be before us now. However, I have been contacted by one group that had concerns about the process. The group to which I refer is called Health Rights and Community Action. I received a letter from that group today, and it has raised a number of points, one of which relates to the consultation process that was undertaken. The letter states:

The consultation process was restricted to 30 persons who were hand-picked by the minister. The responses to the Draft Bill all went to the Registrar of the Medical Board—

and attached is a letter dated 26 March 2001 from the Registrar inviting consultation—

We came upon a copy of this letter and approached the minister to be included in the consultation. As the Registrar is currently performing the duties for the Board, there is a conflict of interest with him conducting the review of the legislation.

The group also has sent me a copy of an undated letter that was written to the Minister for Human Services regarding the draft Medical Practice Bill 2001. The letter to the minister states:

We are writing this submission to give consumer input to the Draft Medical Practice Bill and are also highlighting our serious concerns with the consultation process for this bill.

Health Rights and Community Action responded to the issues paper for the review of the 1983 Medical Practitioners Act. It was the only group which responded to be left out of the next stage of that consultation process.

The letter further states:

We refer to the 'Legislative Review MEDICAL PRACTITIONERS ACT 1983—Report of the Review Panel—March 1999' and quote from page 2 'Submissions and comments were invited from any interested persons and organisations, especially consumers, . . . '. We are very concerned that again we were not automatically included in this consultation process.

The letter continues:

We were fortunate that we happened upon the letter and were subsequently sent a copy of the Draft Bill by you, with a letter dated 3 April 2001. This gave us a very limited time in which to make our submission.

Further, the letter says:

In the Memorandum to Stakeholders dated 26 March 2001 there is a contradiction in the letter. 'The Minister is keen that all stakeholders have opportunity to comment on the draft but asks that within this framework, the document be regarded as confidential and be kept from public airing at this stage of the process.'

They are concerned about how they could have commented, considering the confidentiality requirement. They also have concerns about the time frame being too short to allow many organisations the opportunity to properly disseminate the bill and make an informed response. They also want to know—and I would like to know—whether other consumer groups have been included as stakeholders in this consultation. I would also like to know who did have a part in the consultation process in relation to this bill. I ask the minister to address those issues.

The other point that is made by that group in the letter which they sent today—and they included a copy of the submission that they delivered to the minister and to the Medical Board on 20 April 2001—is that they never received an acknowledgment of receipt of their submission. I ask the minister to address those concerns. It does concern me that a consumer group makes those criticisms. We talk about the need for professions to be more accountable, to be in touch with the community and to work with the community, yet here is a consumer group which meets regularly—I think on a monthly or fortnightly basis—which has quite a large group of people linked to it and which links to other consumer groups, really being quite critical of the process and feeling—and I do not know whether this was deliberate or simply an oversight—that they were somehow less important than all the other stakeholders.

I would be very pleased to hear what the minister says in response to these criticisms, but it seems to me that, if we are talking about working with the community and in partnership with it, we did not conduct that process using that model. I am very keen to know who the stakeholders were in commenting on this bill, and whether the minister actually sought broad consumer input. According to the Health Rights and Community Action group, they took their own action because of their interest in this matter, but I will be very keen to know whether other consumer groups were on the list to be consulted.

This bill, which regulates a profession, has a familiar format that applies to other professional regulatory acts. We have the establishment of a board. The opposition has on file some amendments relating to the make-up of that board, and I will speak about those things in detail in committee.

I want to spend a few moments speaking about the Medical Board, because I must say that concerns are often raised with me (it is not one a week, but perhaps one or so a month—enough for me to know that I receive them on a reasonably regular basis) about the operation of the Medical Board. Without being excessively blunt, the criticisms of the board are about process and a perception that consumers are not welcome; that they are not given the same opportunity to make complaints or responses thereto; or that they are not given an adequate opportunity to receive feedback about a process and to feel that their complaints have been adequately dealt with. There is a feeling that the board is out of touch, and a bit of a closed shop. The concerns relate to a lack of transparency and lack of an inclusive process.

These issues are of concern to me. It is the only professional registration board that I hear about in those terms. It is not a good thing when there is a negative view in the community about a very important statutory authority, because it diminishes the ability of the authority to have the confidence of the community. I will be very keen to talk about some of those issues as we move through the committee stage.

I want to put on the record some general principles that I believe should apply to the medical board and to all boards. In terms of transparency, to the greatest extent possible, the board should conduct its investigations and proceedings in an open and transparent manner. This principle has particular application for ensuring that investigation processes and proceedings before the board are comprehensible to persons making complaints. There should be a bias for disclosure to the complainant of information gathered in assessments and investigations where this does not jeopardise the conduct of an investigation or proceedings before the board.

In relation to inclusion, we should ensure that the quality of investigations is upheld, and that all parties concerned are treated fairly and in accordance with the principles of natural justice. Further, persons making complaints should be regarded by the board as performing an integral role in the process of assessment and investigation of a complaint and in any proceedings before the board.

Persons making a complaint should, as a matter of fair process, be given the opportunity to review and comment on information gathered during the process of an assessment or investigation. That complaint is really common—that once a complaint is made, the complainant does not get a look in from there on. This includes the opportunity to review and comment on any statement made or tendered by the medical practitioner who is the subject of the complaint. People say to me that the medical practitioner gets the opportunity to make an assessment or comment on a complaint but the complainant then does not have any opportunity to also have a say about what the medical practitioner has said. This leaves the consumer in a position where things are said with which they disagree but they do not have the opportunity to clarify or provide more information.

In relation to public accountability, the board should conduct its affairs in a manner that maximises the public accountability of its role, and the board should foster the principle of public accountability of the profession through its educative, standard-setting and investigatory functions. Finally, in relation to a balance of interests, which is what in fact needs to happen, the board should ensure that in the administration of the act, there will be maintained an appropriate balance between the public interest, the interests of the person making a complaint and the legal rights of the medical practitioner who is the subject of the complaint.

Those are the principles of operation members of the new board should adopt. I hope that they will read my comments, because my comments are made after some thought in relation to criticisms that have been raised with me over a number of years and in the hope that we can establish a better system.

Returning to the bill, we note the formation of the Medical Professional Conduct Tribunal. As I mentioned previously, we note that many of these provisions are consistent with those already passed as part of the Dental Practice Bill, and we are pleased to support them. We note the provisions in relation to ownership and business restrictions. We will ask some questions during the committee stage on particular details, but we support those issues, particularly those in relation to handling and managing the corporatisation of medical practices.

We are pleased with the declaration of interest provisions and the prohibition of kickbacks. We support the functions of the board as outlined in the bill, although we have an amendment as we did in the case of the dental practice bill, to insert a new first function of the board, that being to regulate the practice of medicine in the public interest. That is the same provision that we successfully had inserted in the dental practice bill. We are pleased to see the provisions in relation to infection control, just as we were in the dental practice bill. We are also pleased to see that medical students have been included as part of this bill—something I mentioned right at the beginning. We are pleased to see that, just as we were in relation to dental students.

To sum up, the opposition supports the bill almost entirely. We have some amendments to put which we believe would improve the consistency of this bill with the other two bills that have passed through this House, and I will explain those amendments at the appropriate time. The opposition recognises the large number of significant challenges facing the medical profession and recognises also its very important place in the delivery of health care in conjunction with allied professionals. We look forward to the passage of the bill.

Ms BREUER (Giles): I think this is an important opportunity for me to pay particular tribute to GPs and specialists operating in country South Australia. The member for Elizabeth has spoken about country GPs and the role they play in communities. I think that, being out there among those communities, it is important that I say something and pay tribute to the work they do in their communities. I am not sure, but I believe that country GPs work much longer hours than their metropolitan counterparts—although I believe they

also work long hours. One of the issues in the country is that if you are the only doctor in the region you always have to be available to go out there and work with your patients. The other issue is that the patient ratio is usually much higher in the country than it is in the cities, so they have to work for a lot more people because, unfortunately, very often they cannot get other doctors to work in their communities.

Another issue for country GPs is that very often there is a lack of other services in their communities; for example, there are no counselling services. I believe there is no longer a resident psychiatrist outside metropolitan Adelaide. There was originally one in Tumby Bay, but now there are no resident psychiatrists anywhere in South Australia, apart from metropolitan Adelaide. So, GPs spend a lot more of their time providing support services for their patients, perhaps beyond what would normally be expected of a GP. Because there are very few counselling services in country areas, the doctor has to spend a lot more time talking to patients than a GP in Adelaide who can refer them to another organisation. So, they do incredible work helping their patients in that way.

Country GPs also lack peer support that may be available to metropolitan GPs, because of their isolation, as mentioned by the member for Elizabeth. They are not able to have a drink after work with a couple of their peers and wind down, relax and talk about some of the issues. They are probably likely to be called out on another job, anyway. When talking about country GPs, it is important to pay tribute to the South Australian Centre for Rural and Remote Area Health (SACRRAH), which operates out of the Whyalla campus of the University of South Australia, although it is very much affiliated with the University of Adelaide. That organisation does—and has done—an incredible amount of work in the communities in regional South Australia by providing all sorts of assistance to health services, particularly the provision of health professionals.

I pay great tribute to the head of the unit, Professor David Wilkinson, because I believe he is very much the person for the job. He has done wonderful work in community liaison when setting up these services by encouraging people, recruiting doctors for our communities, and so on. I was very pleased when the unit was recently recognised in a large way for the role it has played when it received federal government funding to set up a regional clinical school operating from the Whyalla site. It was very pleasing because it also means great opportunities for our communities and the possibility of training professionals in our areas and, hopefully, encouraging them to stay on in our regions. The unit trains not only GPs but also other health practitioners in allied services. It was a wonderful recognition for them, particularly because they were the only service in country South Australia—and perhaps in Australia—to be recognised in this way. We have great hopes for that service and for what it will provide for us in the future.

The member for Elizabeth touched on issues affecting country doctors, particularly recruitment and the ways of recruiting doctors in the country, and this is an extremely important issue. Attracting any professions to country South Australia is very difficult. I am sure that the Acting Speaker is well aware of this as he comes from a country region. It is interesting that, despite the enticements and benefits offered to get health professionals—and I am referring particularly to GPs—to work in those areas. It is interesting that SACRRAH, which has provided a lot of GPs in Whyalla and other areas of regional South Australia, has really been able to recruit only from overseas in the main. Despite all the enticements offered, it has been very difficult to recruit Australian doctors to work in those areas. They have advertised widely throughout South Australia and Australia but have had to go overseas to actually recruit. I hope that the Regional Clinical School, and any other enticements that can be offered to doctors, will be available so that we can recruit Australian doctors. However, we certainly welcome those overseas doctors—most of whom seem to come from South Africa—into our communities.

Like many other regional communities, a few years ago Whyalla had a thriving medical service, but many of those doctors and professionals are now approaching retiring age and are selling their practices and moving out. So, SACRRAH has been vital in attracting new doctors into our city and other communities such as Coober Pedy, Roxby Downs, Booleroo and a couple of places on Eyre Peninsula. It is an ongoing service and on a couple of occasions I have telephoned Professor Wilkinson and said, 'We have a problem; can you help?' and, within a few months, the situation has been sorted out.

In many ways regionalisation of country health services has been beneficial to our communities but there have also been a few drawbacks. It is often seen by the communities as being detrimental to their health services. They see services that perhaps previously operated in their own community being pooled into another community. There has to be a lot of communicating to make those communities aware that the money is not there any more and that our communities are getting smaller; that we have to be rational about this issue and that regionalisation seems to be the way to go. In Whyalla, I have heard a lot of comments during the last few years about the loss of some of our health services to Port Augusta but, unfortunately, our population is declining.

I want to touch briefly on one of the other issues affecting country patients—and this bill is a particularly relevant issue. While most of us have great praise for our medical services, country patients very often have to come to Adelaide to seek treatment because it is not available in their community—specialists, etc., are not available. Incidents have been related to me, but one that particularly concerned me, which I have taken up, concerns a young patient from Whyalla who regularly comes to Adelaide for treatment and assessment. On a couple of occasions, he has travelled to Adelaide on the bus, arriving around lunch time, going to whichever hospital it is to see the specialist, being made to wait for three or four hours and then getting a message that, because the specialist is not coming in, he will be seen in the morning. That means that this young patient has to stay overnight so that he can see the doctor the next day.

I think this is extremely unfortunate, because the young lad is on social security benefits, and to stay overnight in Adelaide is very difficult. He has to pay for the accommodation because the PAT scheme does not cover accommodation for country patients for their first night. This is a real hassle for country patients. If they stay in Adelaide for one night, they have to pay for that accommodation themselves. Unfortunately, many of these patients are isolated and have to stay overnight; they cannot just get in their cars or catch the bus back again next day. They must stay overnight in Adelaide. I hope that the medical profession takes note of that.

When I complained about this doctor who had done this to my young constituent on a couple of occasions the hospital staff were very sorry about what had happened. However, it was out of their hands. It seemed to be a matter of the

arrogance of the specialist involved who just had not taken into account the fact that country patients are not able to go home and come back the next morning as their city counterparts can. That is an important issue for doctors to be aware of when they are dealing with patients from the country. I support this bill. Many aspects of it will benefit us all. Once again, I say 'Thank you' to our country GPs and to SACRRAH.

Mr HAMILTON-SMITH (Waite): I rise to support the bill and to congratulate the minister and his departmental staff for the excellent way in which they consulted with the community before this bill came to the House. The bill appears in bill folder 102 and comprises seven parts, dealing with the board's membership; the Registrar and staff of the board, its general functions and powers; medical professional conduct tribunal matters; registration; investigations and proceedings; appeals; and, finally, with a range of miscellaneous matters relevant to the board's affairs.

The House will not need reminding that the board and the arrangements set up in this bill are vital to the future effective functioning of human services and medical services within the state. There is no question of that. The Houses will also be aware that the legal arrangements that were in place required upgrading. This bill does that, and it will advance the quality of services that are available to people and the access to remedies available to the public should they have a concern or an issue with the medical profession, or any of the services that are provided by government or, indeed, by the private sector.

There clearly was a need to upgrade present arrangements. The medical industry is going through a period of enormous change. We have invented and discovered a whole range of treatments and procedures that were hitherto beyond our grasp. People can now turn up at hospital or at their local practitioner and seek anything from cosmetic surgery to major reconstructions of vital limbs and other invasive procedures that were some time ago just dreams. They were beyond our grasp; they could not be achieved. They can now. Of course, the demand for medical services has consequently risen dramatically. We are aware that the whole human services and medical support infrastructure in the country is under siege as a result of this increasing demand, and that increase in demand is particularly pertinent in Adelaide with our ageing population.

This bill sets up an infrastructure of arrangements to ensure that our medical resources can cope with the challenges ahead, and that includes not only the things that I have mentioned so far in this address but also the onslaught of technology and the new information-based economy, which has presented its own unique challenges to the medical profession, not the least of which being the onset of possible new entrants in a range of ways into the medical business and changes to the way in which medical information is managed, both within hospitals, medical practices and the community.

All these things have predicated that there needed to be changes to our legislative arrangements, and this bill has taken a step in the right direction. It has been prepared in accordance with requirements set out under the Competition Principles Agreement 1995, and legislative reviews of health profession registration acts have been carried out, and this is one of them. As members will be aware, the new Nurses Act was passed during 1999 and, as a member of the government's backbench committee for human services and health, I am pleased to have been part of the process for this bill and the Nurses Act 1999.

As I see them, the main features of the bill are as follows: it underpins the legislation as a theme for protection of the health and safety of the public. Specific reference is made in the long title to this being 'an act to protect the health and safety of the public'. In exercising its function, the board is required to do so 'with the object of protecting the health and safety of the public'. The theme of protection of the public is carried through generally in the bill and specifically in several provisions such as the medical fitness to practise provisions. I welcome that general thrust; it is vital to the bill's success.

Another key feature of the bill is the membership of the board, which is now increased from eight to 11 members. Of those 11 members, six will be medical practitioners, three must be nominated by the minister, one must be nominated by the Adelaide and the Flinders Universities and one must be nominated by the AMA. The board must also include a legal practitioner nominated by the minister, as well as a registered nurse nominated by the minister (which, by the way, meets an undertaking given at the time of the passage of the Nurses Act). The board must also contain three consumer members who are not medical or legal practitioners but lay people who can provide another perspective to the board's deliberations. After consultation with the board, the minister will appoint a medical practitioner member to be Presiding Member and another medical practitioner to be Deputy Presiding Member. These are better arrangements than we have at present.

Another feature of the bill is the membership of the Medical Professional Conduct Tribunal. In order to provide additional flexibility in arranging hearings of the tribunal, a request from the Chief Judge has been accommodated whereby the pool of members from which the Chief Judge can select members to constitute a hearing has been substantially increased. The tribunal can now consist of 13 members of whom the Presiding Member will be the District Court Judge, nominated by the Chief Judge, or a magistrate nominated by the Chief Magistrate or a legal practitioner of at least 10 years standing. Of course, eight medical practitioners—six nominated by the minister and two nominated by the AMA—along with four consumers will also be included.

In my electorate of Waite, constituents have come to me—and I point out to the House that my constituency is inclusive of the Repatriation General Hospital and is serviced by Flinders Medical Centre—quite aggrieved about the way in which matters they brought before the board were handled. They expressed the view that there needed to be a more inclusive, thorough and open process for handling complaints. I think of one constituent in particular whose husband died of cancer and who felt that the advice that she and her husband had been given at times was extremely flawed. They felt there was a need for action to be taken to prevent anyone else from suffering the same tragedy that they suffered as a consequence of what they felt was faulty advice from the practitioner who was a specialist in Adelaide. They wanted a remedy taken, more to protect anyone else rather than to seek financial remedy. However, they felt that the long, convoluted and drawn-out process that they had to go through was ineffective, and it needed to be made more fluid and more proactive. I think that constituent would find some relief in the fact that in this bill the situation and arrangements have been improved upon.

Another feature of the bill has to do with ownership and business restrictions. There are current restrictions on entry to an activity in the medical profession, through restrictions on ownership of companies by medical practitioners and their prescribed relatives, and limitations on the conduct of registered companies in the practice of medicine. The competition review panel's recommendations, which were approved for adoption, are:

1. The removal from the act of the provisions restricting ownership of companies practising medicine.

2. The introduction of a provision requiring all registered practitioners employed by or in any form of business partnership with unregistered persons to inform the board of the names of those persons, and the board to be required to maintain a register of those persons' names.

3. Introduction of a provision making it an offence for any person to exert undue influence over a medical practitioner to provide a service in an unsafe or unprofessional manner.

4. The continuation of the board's power to restrict the use of inappropriate company names which may be false, misleading or deceptive.

I make the point that I believe that the medical profession is about to face some very interesting challenges as a consequence of the information economy. We will soon find that entrepreneurial medical practitioners are setting up internet based services. People will be able to log in and they will be able to seek medical advice over the internet—for a fee, possibly. They will want to do this. They will want to do their own medical research; they will want to look up case history on medical problems; and they will want to save money by doing all their own homework over the internet and possibly getting some advice over the internet before going to see their medical practitioner.

There are some legal impediments to these sorts of businesses starting up at the moment, but I am sure that there are going to be approaches to government to change the present arrangements even further to free them up a little bit. There will be other issues. People will be able to log into internet sites outside the country and get medical advice in ways that we have limited ability to control. We have the same problems with internet gambling that we are going to face in the medical profession. So, clearly, the legislative arrangements that we set up need to recognise this dynamic and changing environment in which medical practice operates and ensure that it provides for the future needs of the community.

There has recently been considerable media and professional medical focus on the so-called corporatisation of medical practices whereby non-medical companies are becoming involved in ownership of medical practices and employing doctors or otherwise entering into contractual arrangements with doctors—and I alluded to that a moment ago. While the AMA is not opposed to loosening ownership restrictions, it is keen to see that the medical profession and ethical standards are not overridden in such a scenario and that there is some accountability requirement by non-medical owners. Of course, that is the point that I am making.

The draft bill introduces the concept of a 'medical services provider', which means any person (not being a medical practitioner) who provides medical treatment through the instrumentality of a medical practitioner or medical student is recognised in law. Unless exempted by regulation, a person who is not a medical practitioner will be taken to provide medical treatment through the instrumentality of a medical practitioner if the person, in the course of carrying on business, provides services to the practitioner for which the person is entitled to receive a share in the profits or income of the practitioner's medical practice. This has been based on the Medical Practice Act in force in New South Wales. Medical service providers are required to inform the medical board of their existence and contact details, of the identity and contact details of medical practitioners through the instrumentality of which they provide medical treatment and of all persons who occupy a position of authority if the provider is a trust or a corporate entity. These are all good steps forward.

There is a cause for disciplinary action against the occupier of a position of authority in a trust or corporate entity that is a medical services provider if the person or the trust or corporate entity has contravened or failed to comply with a provision of the act. The medical professional conduct tribunal can prohibit or impose restrictions on a provider from carrying on business as such or may prohibit a person from occupying a position of authority in a trust or corporate entity that is a medical service provider. It will be an offence for a person, or a person who occupies a position of authority in a trust or corporate entity, who provides medical treatment through the instrumentality of the medical practitioner or medical student, to give directions that result or would result in the medical practitioner or student being unlawful, acting improperly, acting negligently or acting unfairly.

Another matter of interest in this bill is the provision for declaration of interest—the prohibition of kickbacks, if you like. A medical practitioner or prescribed relative who has an interest in a business involved in the provision of a health service or the manufacture, sale or supply of a health product must, if it is to comply with this bill, provide the board with prescribed information relating to that interest. A person does not have an interest in such a business that is carried on by a public company if the interest consists only of a share-holding in the company of less than 5 per cent of the issued share capital of the company, but otherwise is held to account.

It will be an offence for any person to give or offer a medical practitioner or prescribed relative of a practitioner a benefit as an inducement, consideration or reward for the practitioner referring, recommending or prescribing a health service or health product provided, sold or supplied by the person. It is about openness and it is about people knowing what is going on when they seek medical advice. That is a principle to which this government is committed in all of its dealings, not just in this bill. 'Benefit', of course, means money or any property that has a monetary value, so we are striking the canvas with a pretty broad brush.

The board's functions are addressed in the bill. Several significant powers and functions have been included. Codes of conduct and professional standards are spelt out. There is an 'area of need' registration requirement. This is particularly interesting. Overseas trained doctors are currently being recruited to fill vacancies, particularly in rural South Australia. I note that my colleague, the member for Flinders, is nodding as I speak. The board currently uses its powers to grant limited registration in the public interest to register those doctors who do not have the specified qualifications or who do not meet the other criteria for full registration but who, nevertheless, are suitable to work under certain conditions. Following discussions between the medical boards, medical colleges, departmental representatives and the commonwealth late last year, it was considered desirable for the states to put specific provisions in their medical

practice acts to provide that applicants for registration who have obtained qualifications for the practise of medicine under the law of a place outside Australia may be granted limited registration by the board to practise in a part of the state or in a place that the minister and the board consider is in urgent need of the services of a medical practitioner.

My good friends the member for Flinders, the member for Stuart and the member for Goyder (who has just entered the chamber) would agree that this is a very positive step forward in providing medical services to country areas. I notice that the member for MacKillop also recognises the importance of this step forward. This will assist in fast-tracking such applicants and will be complementary to the commonwealth's initiatives which facilitate the placement of overseas trained doctors in rural areas.

There are powers granted in the bill to enter premises, and arrangements for infection control. There is also provision in the bill for a medical practitioner, on becoming aware that they have a prescribed communicable infection, to be required to provide, forthwith, written notice to the board, and that is further protection for consumers. A number of minor offences are set down in the bill and these include offences of less than professional conduct which merit a greater penalty than a reprimand and which the board has been required to refer to the Medical Practitioners Professional Conduct Tribunal. There are arrangements for insurance and there are also arrangements for the registration of medical students.

I think that this bill is going to complement the initiatives that have been taken in the government's budget which have taken great strides forward in providing extra resources for hospitals and in setting the scene for the future in South Australia so that our constituents can enjoy the standard of medical services that they have come to expect and which I feel confident are of a world class standard. I sometimes have constituents expressing concerns about a particular aspect of medical services that might be available to them and I ask them, 'Can you tell me any country in the world where you would rather be ill, where you feel you would receive superior services to those which you would receive in South Australia?' I am yet to have one constituent name a country. I think that this bill demonstrates that the minister and his department, and the government, recognise the aspirations of South Australians for their future medical needs; it recognises that the government is prepared to put in place legislative arrangements for a board and a system of management which will provide a first-class system of health services for Australians in the years to come.

[Sitting suspended from 6.01 to 7.30 p.m.]

Mr HANNA (Mitchell): I am pleased to support this bill, and I want to approach it from the perspective of one particular doctor constituent of mine who, through his experience, has exposed some of the problems with the system for training and licensing general medical practitioners. There are problems with the federal legislation and with our ancient system of colleges for the various medical specialties. Although the measures in this bill are sensible, I suggest that they do not really go far enough. I want to highlight some of the problems that, in conjunction with the federal government, our state government should be addressing. The doctor who came to see me in my electoral office would not want to be identified, but I can say that he has worked for several years in the public hospital system and he is therefore an experienced medical practitioner, yet he cannot practise as a general medical practitioner.

The problems are twofold. One is that when he graduated he went straight into the public hospital system and, as I understand it, if he now wishes to practise as a general medical practitioner he needs to complete training as recognised by the Royal Australian College of General Practitioners (the RACGP). However, he is very upset that his years of experience in the public hospital system, which include admitting rights and dealing with mild to severe cases of all manner of affliction, carries absolutely no weight in the eyes of the RACGP so that his experience gives him no accreditation whatsoever in the training programs run by the RACGP. Another problem arises from the federal legislation governing the provision of provider numbers, because without the provider number he cannot claim Medicare benefits for his income and therefore effectively he will not be able to practise in private practice as a general medical practitioner. It seems that there is a deliberate policy of restricting the number of general medical practitioners.

The Hon. Dean Brown: You realise that these are both very valid points, but they are both federal?

Mr HANNA: This is crazy. I acknowledge the minister's interjection that these are federal government issues. If the minister was listening to what I said earlier he would have heard me say that what we have in this bill is good but, in conjunction with the federal government, these issues need to be addressed. I believe the state government has a role in working with the federal government to address the problem. It needs to be done because it is critical to the provision of medical services in South Australia and particularly regional South Australia. There would be plenty—

The Hon. Dean Brown: There's a disease going around Canberra called 'selective deafness'.

Mr HANNA: It is a chronic one. Plenty of country towns in South Australia could do with the benefit of general medical practitioners, many of whom would be prepared to work in such places for a relatively low income and yet they are not able to practise as general medical practitioners, despite having extensive medical experience. That is a crazy situation. There are of course cost implications, and that too affects the state of South Australia adversely, because somewhere in the system people will be seeking the advice of general medical practitioners and if they cannot quickly get to a GP in their suburb or their town they will seek those same sorts of medical services from public hospitals. So, bearing in mind all the cost sharing arrangements between state and federal tiers of government, the state of South Australia will bear part of the cost of those services provided to outpatients at general public hospitals. So, the state and this minister have a vested interest in solving this problem of the restriction on the number of GPs allowed into the system.

To some extent this harks back to the structure of training and accreditation which we have inherited through our colonial history going right back to the guild system of the Middle Ages in England. The fact that we have colleges for surgeons, general practitioners and other medical specialties smacks of the guild culture, whereby the practitioners of certain skills or trades wanted to preserve the right to regulate and admit members to that particular specialty. In almost every other area of work you can imagine—certainly in all the trades as we know them, such as carpentry, plumbing, etc.—the industry is not the final arbiter of who can be admitted.

In other words, in a general sense the state has taken an intervening role to ensure that the people providing the service are properly qualified and able to provide that service. So, it seems utterly antiquated to me to have colleges of GPs and other medical specialties still determining what the requisite training should be for someone to enter the field. I do not say that they should be excluded from the process. On the contrary, it will be essential to have clinical experience on boards which decide who can and cannot practise medicine, but it seems to me that ultimately the state should be the arbiter of who can and cannot practise in such an important area of life.

With those comments, I am happy to support the government's Medical Practice Bill. It is one of those sensible bills which deserve bipartisan support. However, I repeat that the minister really should take up the cause of insufficient GP numbers and the whole system of provider number provision and the training and accreditation of GPs, particularly those who are locked into the public hospital system at present for the reasons I have mentioned. The minister should take up those causes with the federal government. I do not resile from those remarks; even if in a few months we have a Labor Party minister at both state and federal levels, the principle remains valid.

Mr LEWIS (Hammond): I am pleased that a number of members from both sides of the chamber are interested in the legislation we have before us—members from the government and the opposition, as well as from the ranks of those of us who are not aligned. It pleases me because it is good parliament, and there ought to be more of it. I also support the proposition, and it is an easy proposition to support, because of the thoroughness with which the provisions contained in the bill have been researched and developed through the process of consultation that has been undertaken by the minister through the aegis of his office and the people who advise him.

I am also pleased with the level of inquiry that the opposition has made and the consequential awareness that it has found in relation to the proposals, and whose members are willing to stand here and say so, not just because they are members of the Labor Party but also because they are doing their job as the opposition should and, more particularly, because they have explicit concerns, as the member for Giles has expressed, on behalf of their constituents. I am no exception in that respect and, having heaped some fulsome praise on the process and the people who have participated in it, let me get to my parochial interests as well.

I want to illustrate that by referring to the fact that the current board is not as well constituted as it could be, and the proposal in this legislation is to ensure that it is better comprised to serve the interests of the public at large more so than the interests of the profession that serves them. And that is what it is there for: to ensure that appropriate ethical standards are observed. I commend the minister, in the current context, for appointing a country GP to the board, even though at the time, because it was a departure from previous practice, it was thought to be an action which could be detrimental and reduce the effectiveness of the board by putting on the board someone who did not have the time or, it was argued, the inclination or insight to take their responsibility seriously. What piffle that has turned out to be. Mr Speaker, I am sure you know, and the member for Flinders knows, that that GP from Port Lincoln (who probably wishes to remain nameless, and will) has done a very good job, and may yet continue to do so, as a member of the board.

In all, the legislation is groundbreaking, in that it is based on the experience we have had and the research that we have carried out under the direction of the minister, and it provides template legislation for the rest of Australia to follow. I am advised that the rest of Australia is looking eagerly at the way in which the parliament will deal with this proposal, and will probably pick up what we do here and pretty well copy it in their own context. They would be silly if they did not, because of the amount of time that has been spent on its preparation—it always had a cost attached to it—and they would receive the benefit of that enormous and careful deliberation in the preparation of the material that has gone into this bill. It is just not necessary to for them to reinvent the wheel.

I am pleased that the board will be restructured in some measure, and I believe that is consistent with what this minister has done in the context of other boards for the other medical and paramedical professional services provided in the state. It is, therefore, no surprise that the doctors accept the fact that it will happen, although I am not sure at this point what ultimately the parliament will produce.

There are a couple of other things that I want to talk about in broad categories of information. I refer, first, to the trend that I have seen in recent times—which was not previously banned in law but which was never undertaken under, if you like, the traditional ethics of the medical profession—of the corporatisation of medical practice, where we now have specialist practices owned by people who are not doctors and/or doctors who are not, in fact, practising in that particular service. They are not part of the practice; they do not have a share of its income. The doctors treating the patients become merely salaried employees of a corporate entity, the object of which is to make a profit.

I commend the profession for previously not allowing that to happen of its own volition. I am disturbed by the trend now. It has been clearly a matter of the treating doctor's opinion, based on professional knowledge and good science as part of that knowledge, which has driven them in their decision-making processes about how much time to spend with a patient, what questions to ask the patient about matters that might be causing them discomfort, to be ill at ease, and what other factors might be contributing to their general dilemma—their overall health, if you like. The disease that they have is not simply a mechanical consequence of something going bung. We are organic in our structure, and we are not engineered as a piece of machinery. We are living beings. Doctors recognise that, and so do the paramedical professions.

However, if one goes to a corporate structure, where the motive driving the investment of the dollars in the practice is the profit produced on those dollars compared to what can be otherwise obtained if the dollars are invested in another kind of business, one will get, potentially, the same kind of interference in what has otherwise been, very importantly, the professional interaction between the doctor and the patient. That interference (restricting the amount of time and the ambit of the inquiry that the doctor will make of the patient about their general condition) will have detrimental consequences, and I see as a consequence the insurance costs for professional indemnity rapidly escalating. Who will pay for it? Some people might say that, naturally, of course, the practice will pay for it; the business will. That is bull. Ultimately, the patient will pay and, in the main, in our health

care system—as I am sure members on the opposite side as well as those on the government benches will appreciate—it will be the public purse that pays.

The profit going into the corporate entities which will own those practices will be gained at the expense of higher tax paid by all of us and all the people whom we represent here, because those corporate entities will be seeking profit, not wellness in the people they treat; not relief from discomfort in the people they treat; and not personalised insight into the holistic, organic nature of the human being which sits before them for diagnosis. Rather, there will be a mechanistic analysis of what will be considered a mechanical kind of problem that can be fixed by whacking a few shots of a grease gun onto a nipple, or something like that, or a few shots in the backside to get over the infection; and not otherwise consider the general problem at large which caused, say, the patient's immune system to run down through the stress that they were suffering from factors outside the immediate symptoms which the doctor sought to treat. They will be ignored.

Too much of that has been happening in the past and the trend is in that direction, and it is wrong. I am pleased that the minister has recognised this and personally assured me (and the legislation provides) that there will be very stringent controls through this legislation imposed on the way in which practices can function to ensure that they provide for the needs and interests of the people who consult the professionals, the doctors, who work there.

Under this legislation there will also be more stringent provisions requiring the declaration of interests of doctors if they own shares in drug companies, and the owners of the practices likewise if they have shares in other entities which could profit from the use of those entities by referral of the doctors in the practice, to prevent that from happening. That is another ground upon which the ultimate cost will be borne by the taxpayer, not the practice itself and not the patient, but through the health care system that we have in this country it will be the taxpayer who picks that up.

Again the minister is to be commended for digging out the prospective consequence of the trend that he saw emerging by asking the questions of the people who were doing the research into this legislation about the possibility of those things happening and covering all bases in consequence of it. I know that that, too, has been a point which the opposition has approved of, even though I have not heard any of the members of the opposition say soin their remarks to the House. Nonetheless, I have heard them say it privately and I commend them—and I mean no injustice to them: I have not been able to concentrate on everything that has been said. It is important then that we acknowledge that it is not chance, but rather it is a deliberate intention of parliament to prevent that kind of conflict of interest from creeping in where the doctor in a practice is directed by the owners of the practice to refer the patient to a particular hospital for a medical procedure, or prescribe a particular brand of medicine because the owners of the practice have shares in either the hospital or the drug company, and to do other similar things. This bill seeks to ensure that that cannot happen; that is good. There will be a higher level of accountability for the way in which practices are conducted and administered. That is important in this day and age because the medical profession has allowed itself to be overtaken by what one might otherwise describe as normal commercial practice. I have already illustrated, in part, that higher level of accountability by reference to the things I have just said.

I am pleased, too, to note that the HIV-AIDS infected doctor and/or medical student and the hepatitis C infected doctor and/or medical student can now be prevented under this new legislation from endangering others. It is not at present possible. Indeed, it is impossible in the case of medical students: the universities will not disclose the fact to the hospitals where they are doing their internship. They do not know whether the medical student has one of those communicable diseases which puts the patient at risk, and considerably higher risk than would otherwise be the case. The universities simply say, 'It is none of your damn business,' to the hospitals, and that is as crook as hell. The legislation provides that anyone who is infected with HIV-AIDS or hepatitis C has to seek medical advice and opinion from another doctor and, in so doing, the fact has to be reported—the treating doctor as well as the medico who is seeking the treatment—under law and thereby protect the public interest.

Those of us who follow these matters know that there have been examples of where that practice, observed in the breach—as we propose the law it would be observed in the breach, if this law were in operation now—has had detrimental consequences for patients already in this state; it is not good enough. The minister has been quite bold in tackling the potentially politically incorrect proposition that HIV-AIDS and hepatitis C sufferers have to be reported, and must be prevented from performing in the profession and in the delivery of medical services in ways which put their patients at risk. It does not stop them from making a living with their medical qualifications, but it certainly stops them from causing illness by infecting others.

The other matter to which I wish to address myself by making just a few remarks is again the body parts question. I am still apprehensive that there has been an unbalanced debate on that matter. We know that practices in the past—well before the early 1990s legislation came into existence—enabled the advancement of knowledge and the understanding of disease by the medical profession to proceed much faster than would otherwise have been the case if there had been strong controls over what could be done with the tissues of someone who was clinically dead. As I said the other night, and as I have said or tried to say publicly but I do not think the interviews have gone to air, all of us know that once we are clinically dead our bodies are no longer useful to us if we believe in, as I do, the spirit (or the soul) of the individual departing the body and leaving behind the body which has served that person when they were alive on this earth.

However, the organs left in those bodies for a matter of seconds and minutes after life departs (in the formal holistic sense) are still living and useful and able to be lifesaving for other people if appropriate steps can and are taken to use them. All mine are donated when I die, if it is possible in the circumstances of my death to use them; whether or not they will be of any use I will leave to the practitioners of the day, but they are there to be taken and used. They may be used for either saving a life immediately, or, alternatively, for research, as warm tissues in which simulated life, virtual life, can be retained for the purposes of further discovery of the biological processes which go on in those organs and which those organs themselves contribute holistically to the maintenance of life within the body.

It is crazy for us now to make it difficult, if not impossible for doctors to get access to that material. If this is the direction in which the debate is taking us, they will not bother: it will be so much paperwork and bureaucratic bumph

that they will simply not want to be involved, and that will set back the advancement of medical research and treatment enormously.

I do not believe that young children ought to be mutilated without the knowledge of their parents—I am not saying that—that is, mutilated after they have died without the knowledge and consent of their parents. I do not believe that someone who has not wanted to donate their organs ought to have their organs taken from them, but I am saying that if—

Time expired.

Mr McEWEN (Gordon): I rise to indicate my general support at this stage for this bill and to put on the record that, when I first circulated this bill among medical practitioners in the area I proudly represent, I was somewhat surprised to find that there was very little knowledge about it. I raised the matter with the AMA, and they pointed out that they use their structures to refer the bill on and they did not know that their representatives in regional areas may not have fully embraced their colleagues in the consultative process. I believe there is a message there for the AMA inasmuch as they are required to ensure that they have had the opportunity to be at least informed if not the opportunity to provide feedback.

Having said that, I report that, having circulated the bill widely, I received very little negative comment on the bill. Generally, people felt that it was moving forward in terms of a broader embracing of the fact that medicine is no longer a closed shop and that there ought to be some peer review and more general processes in terms of managing in a more transparent way. A couple of people expressed a little concern about the peer review—particularly for doctors who themselves may have AIDS, HIV or hepatitis C—and indicated that it might be impinging on their right to privacy. Again, a balance has to be struck between their rights as individuals and the fact that they could put another party at some risk, and it seemed on balance that the bill was reasonable in that regard.

In terms of representation, some considered that the board could be a little broader, and I would like to see the opportunity for a democratic process. The shadow minister has also been generally supportive of the bill and quite responsible in advocating a couple of minor changes in that the membership be expanded and that two of those positions be elected at large. In committee, I understand that the minister will move a slight modification to that which I think will satisfy most of the needs of the AMA and GPs at large. I think, on balance, we will achieve something there.

With respect to the broad responsibility of the medical profession to manage the health of the community, I understand that a comment to that effect will be incorporated in the bill as well, something along the lines of being 'in the public interest'. So, with a couple of minor modifications, I think that the bill is a step forward and tonight, on behalf of those constituents I represent, I indicate my broad support.

The Hon. DEAN BROWN (Minister for Human Services): I thank honourable members for their very positive contributions to this bill. I think it has been one of those measures where a significant amount of thought has been put into the debate, and I thank all members concerned for the way they have gone about their assessment of the bill.

I want to address a couple of points that were raised during the second reading debate. I am certainly willing to look at a modification of the composition of the board and an amendment will be introduced. That amendment will include a representative from the AMA, but I intend to allow an extra person on the board who is to be a medical practitioner elected at large from the total membership of the medical profession. Therefore, you will see a board of 12 rather than 11 members, and the AMA will still be represented. I think there is sound reason to retain AMA representation: first, because it has traditionally been represented on the board but, very importantly, I think the AMA plays a significant role nationally, and that does not apply in other professional areas. There is not that same involvement with those professions at a national level because there is not the same involvement by federal government in other professions as there is with the medical profession.

The member for Elizabeth asked what recommendations made by the competition review had not been adopted. Almost overwhelmingly the recommendations of the competition review have been adopted. One or two rather minor ones have not been adopted. The third recommendation was:

> The recoveries of fees or other charges should be deleted under certain circumstances.

We disagreed with that recommendation. There was some modification to recommendation 8—'the act continue to empower the board to restrict the use of inappropriate company names which may be false, misleading or deceptive'. I think that some modification was made to that recommendation. Another related to the tribunal, and we are making a number of modifications in relation to the tribunal. I assure the honourable member that almost all the real substance of the recommendations of the competition review have been made available and I am happy to provide her with a copy. I must apologise: I thought that a copy had been made available but it appears that she does not have a copy. I think it has been formerly released publicly, so I am not sure why she did not get a copy. I am happy to provide a copy and she will see that, overwhelmingly, the recommendations have been adopted. There was one recommendation that 'section 71 and regulation 11 (medical practitioners to submit details of interests in hospitals) be removed from the act'. We have brought in other provisions there which I think effectively cover that, anyway.

The other point made concerned the basis on which we went out and consulted on the legislation. First, this was done through the Registrar of the Medical Board; this has been done with all the other pieces of legislation as well. When about 10 pieces of legislation are all being reviewed at once, I would use the Registrar of the board as the means for a broader consultation and also because they know the main organisations they directly relate to and are familiar with the operation of the legislation. What has tended to occur is that my office has been directly involved, and very much so, and that includes me. The department has been directly involved, as have the Registrars of each of the boards, and the same has applied with the Medical Board as has applied with the dental and nurses measures. So, we have used exactly the same process each time.

In this case, as has been done previously, the Registrar of the board has circulated the draft bill to a large number of organisations and interest groups—I can give some indication of that—including consumer groups. Initially, Health Rights and Community Action was not given a copy, but when they asked for one they were given a copy immediately. I think the honourable member said that it had not been acknowledged.

Ms Stevens interjecting:

The Hon. DEAN BROWN: They actually hand delivered it to my staff. We did not go back and respond to each submission, because it has to go to cabinet. Until a matter has been through cabinet, you cannot go through and respond on each clause.

Ms Stevens: They just wanted formal acknowledgment that it had been received, which I think is fair enough.

The Hon. DEAN BROWN: They actually hand delivered it to my staff, so I did not think it required an acknowledgment. In fact, the others did not receive acknowledgment from my office, because most of the submissions went back to the Registrars of the boards. In the case of Health Rights and Community Action, they brought it into my office. In terms of the organisations covered, strong consumer interests were covered in that representation. It included SACOSS, the Council for the Ageing and Kate Moore, a person who is very heavily involved nationally in consumer issues; and the Ombudsman was involved and given a copy to comment on. So, in fact, it did go out to some significant non-medical groups, and their comments were sought as well.

I want to thank a lot of people for the hard work they have done over about two years to establish this new bill that we have before the parliament. First, I thank the Registrar of the Medical Board for all of the work that he has put in; I thank the Department of Human Services, particularly the Chief Medical Officer for all of the work that he has put in; my personal staff for all the work that they have put in; and members of the Medical Board who considered this bill at some length over an extended period of time. I say that because you have to appreciate that this bill is a significant and, in some ways, radical departure from what the old act was; and it is a departure that I think is leading the way for the whole of Australia.

I had the opportunity to be a guest speaker and an opening speaker at a conference of medical boards for Australia and New Zealand last year. I argued the case very strongly indeed that the time had come for a whole change in the way medical boards operated; that there needed to be a very strong consumer and public interest perspective; and that for too long it had been very much the medical profession sitting down and looking at issues purely through the eyes of the medical profession—a classic example of this is, for instance, whether or not a doctor had a communicable disease.

There is a requirement under the existing legislation that if a doctor was treated by another doctor and there was a disease that should be notified to the board, that treating doctor was compelled to notify the board. However, if a doctor thought that he or she had, say, HIV or hepatitis C, the obvious thing was not to be treated by another doctor, and then there was no requirement necessarily to notify the board, particularly if they were not tested. They themselves would have been uncertain but they may have suspected that they had one of those blood-borne diseases. There are huge obligations there, and I believe that that was unacceptable to the broader public. In such a classic case, we now require them to be tested and they are required to submit the results of that test to another medical practitioner and to the board if it is a positive test. That is just one example of the dramatic changes.

The other dramatic change in this legislation relates to the fact that you now have corporate ownership of medical practices, and it would appear that we might be heading towards, say, three or four very large corporate owners of medical practices around Australia. That introduces a whole new dimension to medicine: are these corporate owners going to insist that they must treat a certain number of patients per hour; will they insist that a certain number of pathology tests must be carried out; are they going to insist that these pathology tests, when they are carried out, go to another associated company for analysis; will they insist that, when they write out prescriptions, they recommend to the patient that they go to a particular pharmacist; and, will they insist that, when there are x-rays or imaging to be done, they go to a particular imaging company?

They are all profound issues, and they could ultimately affect the quality of care and the advice that the patient gets. So for the first time we have brought in recognition of this corporate ownership and, secondly, we have put stringent standards on the fact that the corporate owners will not be able to dictate factors that may affect the advice given by the medical practitioner who may be working for one of those corporate practices, either as an employee or on a contract basis. If there is any interest in terms of another service to which the medical practitioner may be recommending someone, that vested interest must be declared.

For instance, it may well be that the medical practice, the company owning the medical practice or the medical practitioner himself or herself may have an interest in a particular hospital and may recommend to the patient that they go to that hospital. In that case, under this legislation, the medical practitioner must declare that pecuniary interest in the hospital. Equally, if they had shares in an imaging company, a pharmacy or a pathology company, they would have to declare that pecuniary interest as well, or if the company had the pecuniary interest they would have to declare that. If we find that the company that owns the broad practice for which the medical practitioners work behaves unacceptably, as outlined by the bill, then we have the power to prevent that company from operating or certain individuals from holding office within that company. Ultimately, we have the right to stop that company from providing medical services in South Australia.

We have taken the medical profession as it sat 20, 30 or 40 years ago and literally tried to bring it into the next century and deal with all the changes that are starting to emerge. As a result, we have forecast what sort of changes might emerge over the next 20 to 30 years. The measures we have before the House provide template legislation for what other states around Australia will adopt.

I received substantial comment after the medical board conference representing all the states and territories, that they saw the need for the shifts that we were making, and they supported them very strongly indeed, even though I understand it created some pretty lively debate for the following two days. Equally, since we introduced the legislation into the parliament, I have received comments from other states of Australia as well indicating a great deal of interest. Several weeks ago, I was asked to address a national conference in Sydney on clinical trials and how clinical trials and their ethics related back to our new Medical Practice Bill, which is the bill being debated tonight.

At that national conference the bill again received a great deal of comment, debate and discussion. I was interested because immediately afterwards there was quite a gathering of people around who wanted to sit down for the following hour and have a lively discussion about a number of issues covered by this bill that I had raised in the speech. It shows that there is now considerable interest in the sort of legislation that we have before the parliament and the fundamental changes we are trying to implement. This bill will be seen as

setting a whole new set of standards for the medical profession within South Australia and for Australia. We have taken many of the concepts that we put into this bill, and we have amended the dental bill to reflect the same concepts. Again, we are developing a framework of legislation that will be able to be applied to other areas of the health profession as well.

I appreciate the comments made by members of the House, and I appreciate their support for the legislation. I understand it is important. I know there has been a lot of debate recently about certain issues. Again, this is part of making sure that we are able to go to the broader community and argue that we believe that standards for the medical profession are extremely high indeed. The community should have a great deal of confidence in the way the medical profession operates in this state, as I have—and I stress this—the highest appreciation for and acceptance of the standards that the medical profession applies. It is important, though, that we put down ethics and standards that the rest of the community understands and relates to and sees adopted across the profession. I urge all members to support the bill as it goes through committee.

Bill read a second time.

In committee.

Clauses 1 to 5 passed.

Clause 6.

The Hon. DEAN BROWN: I move:

Page 9, line 18—Leave out '11' and insert:
12

Page 9, line 19—Leave out '6' and insert:
7

The effect of this is to increase the number of members on the board from 11 to 12; to increase the number of medical practitioners from six to seven; and to insert a new subsection under clause 6(1)(a).

The CHAIRMAN: We can deal only with the first two amendments.

The Hon. DEAN BROWN: I will explain the overall effect. The proposed new subsection provides that one medical practitioner would be chosen at an election conducted in accordance with the regulations. Therefore, the intent would be for there to be one extra medical practitioner on the board, and that extra medical practitioner would be elected at large. Therefore, all doctors can have a say in electing someone to the board. I still would argue very strongly that there is a role for the AMA to nominate one person to the board, because of its heavy involvement in medical issues nationally, which I stressed earlier was unique to the medical profession, more so than with other professional groups. The two medical schools—the University of Adelaide and Flinders University—should have a nomination as well. It is important that the minister be able to have three nominations as medical practitioners, one of those will be from the public sector; the other two will allow the minister to make sure that there is fair representation, such as a rural GP, a surgeon or others who may otherwise not be covered by the representation on the board.

Ms STEVENS: I seek some guidance from the chair. Can we take each of those separately, and not as a group?

The CHAIRMAN: It is the intention of the chair to deal with clause 6, page 9, line 18, and clause 6, page 9, line 19, and then we will need to deal with the amendments that the honourable member has on file and come back to the minister. So, we are dealing with clause 6, page 9, lines 18 and 19, at this stage.

Ms STEVENS: In relation to the minister's amendments to clause 6, the opposition is pleased to see a registered nurse on the board. The minister gave that undertaking—

The Hon. Dean Brown interjecting:

Ms STEVENS: He did. He has not done so well on consistency, but he has kept his promise on the nurse representation and we are pleased with that—and the ANF is pleased as well, because it was very eager to see if he would keep his promise on that. The minister's amendment came after my amendments, and I want to explain why we have done what we have done and then move to the minister's amendment. When I spoke during the second reading I made the point that we believe that it is important that there be consistency in the way that these professional acts are developed and the way that they leave this parliament. We have been keen to look at that in both the previous measures—the Nurses Act and the Dental Practice Bill. The particular clause of concern is the one that relates to a nomination by the Australian Medical Association. In both the other acts it does not occur: in the Nurses Act the ANF is not able to nominate, and in the Dental Practice Bill the Australian Dental Association (ADA) also is not part of any nomination process. Under both those acts, members of the profession are elected according to the regulations, and we believe that is the cleanest and fairest way to go in this matter.

When discussing this matter with the minister, he pointed out that he believed that it was important for the minister to nominate three medical practitioners in subclause (1), and I accept what he has to say in that regard which, of course, means that we need to increase the total number on the board to 12 if we are going to make a further increase down the line. So, I accept at this point what the minister has said in relation to three practitioners being nominated by the minister in subclause (1) and the opposition supports the amendment in line 18 to 'leave out 11 and insert 12'. We also support the amendment in line 19 to 'leave out 6 and insert 7'.

Amendments carried.

Mr LEWIS: Can I ask the minister, now that we have the amendment, a question about the consequence of it?

The CHAIRMAN: Yes.

Mr LEWIS: I could not ask it before.

The CHAIRMAN: There are other amendments that need to be dealt with in that particular clause and, once those amendments are dealt with, I would provide the opportunity for the member to ask questions on the clause as amended.

Mr LEWIS: What the minister will say will affect my disposition in relation to any subsequent amendment, and I therefore see it as a chicken and egg. My question is simply this: if the election of a member to the board from all the general practitioners is undertaken, if that is the way that it comes out—and I am inclined to think that that is a good way for it to go—and the AMA will be able to nominate another member in that group of two, can I have the minister's assurance that the AMA would do its nominating first, before the election process, so that there would be no spoiling by the AMA in nominating the person who ran second in the ballot?

Ms STEVENS: I have a point of order. I do not think that we are dealing with that particular issue yet. Are we not dealing with the first two amendments, involving page 9, lines 18 and 19?

The Hon. DEAN BROWN: Because I have raised the general issue, let me deal with that, because I think it is a fair question to be asked in terms of the whole explanation of the clause. The difficulty is—and you realise this when you are

a minister and you go through this on a regular basis—that when the board is up for renewal you therefore write to the universities, to the AMA and to the board and say that they have to run a ballot. Certainly, I am happy with the way I conduct it, and that is to require the AMA to put forward its nomination before the ballot and to require other people to put forward their nominations as well before the ballot so that it is understood who are the other nominations that have been put forward.

However, you have to appreciate that there can be still no guarantee because, until the ballot and until the minister takes them all to cabinet, there is no guarantee that cabinet or the executive council will accept all the nominations put forward—because these are put forward in executive council and I cannot pre-empt what the government in executive council may or may not do. So, I give the assurance that I would observe that time sequence, but I cannot give an assurance in terms of other ministers in the future and I cannot give any guarantee in terms of what the executive council may do.

The other difficulty, of course, is that someone may have been put forward by, say, an elected member, the elected member may resign at any stage, or the AMA representative may resign at any stage, and then you have to fill a casual vacancy. Again, that puts the thing out of sequence. But you have to deal with those issues as they arise.

Ms STEVENS: I move:

Page 9, lines 25 and 26—Leave out subparagraph (iv) and insert:
(iv) 2 are to be chosen at an election conducted in accordance with the regulations;

For the benefit of the member for Hammond, this is directly in relation to the point he just raised. I am suggesting here that two members of the Medical Board should come from the profession. The bill provides that only one is to be nominated by the South Australian branch of the Australian Medical Association. My amendment provides that there will be two but that these two will be chosen at an election conducted in accordance with the regulations. My amendment differs from the minister's. The minister's amendment provides that one is to be nominated by the Australian Medical Association and one is to be chosen at an election conducted in accordance with the regulation. The opposition prefers our amendment, because it is cleaner and absolutely consistent with what has happened in the Nurses Act and the Dental Practice Bill. It seems to me that the minister's amendment is setting up a very messy process. My preference is for an election in accordance with the regulation. If any one group has the numbers, does the work and wins the election, so be it. Let us make it clean and make it an election of all members who are able to vote, just as it is in the nursing and dental professions.

The minister says we are gathering together a structure that can be used for all the other professions. Let us keep the consistency and not keep chopping and changing from bill to bill. That is why we prefer our position on the basis of consistency. Those who organise and win the ballot, whoever they may be, have the position.

The Hon. DEAN BROWN: I oppose the amendment, because I believe that the AMA has a legitimate role to play in the Medical Board. It is different from other professional groups in that so much is determined at a national level as far as the medical profession is concerned. The AMA is invariably the body that represents the medical practitioners at the national level.

Ms Stevens: We are talking about a state act.

The Hon. DEAN BROWN: I know but, whereas other professions tend to be largely dominated at a state level, if there is one that tends to be a much more complex area with both state and federal involvement, it is the medical profession. An honourable member mentioned in his speech that the provider numbers, the role of the royal colleges and a lot of the training and qualifications—

Ms Stevens: You said they are federal matters, and they are; you picked that up.

The Hon. DEAN BROWN: They are all federal matters; I know. I am highlighting the fact that, therefore, because the AMA is invariably involved in all those federal matters, they are the legitimate body to be involved on a state board because of the interaction of those federal matters with the state board. I think one should be from the AMA and the other be elected at large.

Amendment negatived.

The Hon. DEAN BROWN: I move:

Page 9, after line 26—Insert new subparagraph as follows:
(v) one is to be chosen at an election conducted in accordance with the regulations; and

This means that one medical practitioner would be elected at large.

Amendment carried; clause as amended passed.

Clauses 7 to 12 passed.

Clause 13.

Ms STEVENS: I move:

Page 11, after line 16—Insert new paragraph as follows:
(aa) to regulate the practice of medicine in the public interest;

This is to insert, as we did in the Dental Practice Bill, an amendment which provides that the very first function of the board is to regulate the practice of medicine in the public interest. I do not think it requires any further explanation.

The Hon. DEAN BROWN: I accept that; I think it is a good amendment.

Amendment carried; clause as amended passed.

Clause 14.

Ms STEVENS: I raise the issue of the Complaints Advisory Committee, which I understand is one of the subcommittees established by the board. A number of people have raised this as a process problem, which I hope the new medical board will take on board. Maybe the minister can clarify this. I am told that the Complaints Advisory Committee carries out most of the complaints process. Will the minister explain the role of the complaints advisory committee? Further, will he say how many complaints finish and do not proceed any further than that?

The Hon. DEAN BROWN: Currently there is not one but, in fact, three complaints advisory committees. They give advice to the Registrar on the response from the doctor involved after a complaint has been lodged. They collect that response and pass it on to the Registrar and at that point it is decided whether or not the matter will go further.

Ms STEVENS: Who makes the decision?

The Hon. DEAN BROWN: Ultimately it is the Registrar who makes that decision.

Ms STEVENS: I will need to think about this between the houses, I think. This is one of the parts of the process where there are concerns that things get stopped there. People feel they do not have a fair hearing and that a good complaints process breaks down at around this stage.

The Hon. DEAN BROWN: I can understand the honourable member's concern. The issue would be that I believe that there must be a consumer representative on any

complaints committee. That is not specified there. I believe that, in fact, there could be some sort of general understanding between the board and the minister that that is the expectation. I would be happy to discuss this matter further with the member, but I think the important thing (and the point that I think the honourable member is raising) is that it does not sit with only medical practitioners on it; there has to be a non-medical practitioner sitting on the board. It may not be a consumer; it may, in fact, be a lawyer or, in some cases, it may be appropriate that it is a nurse. I think what the honourable member is saying is that she would want to ensure that there was a non-medical practitioner sitting on such a committee, and I think we can work out how we can best achieve that.

Ms STEVENS: I am not saying only that—and I would be happy to talk with the minister further about this matter. I think we also have to ensure that we have a better, more transparent, fairer complaints process than is currently occurring. I would be quite keen to talk about this before the bill goes to the other house to see whether, in fact, we need to do anything to effect that. But that certainly would be our intention.

The Hon. DEAN BROWN: One option might even be to look at whether you have two non-medical practitioners—in other words, a majority of non-medical people—on any such complaints committee. But I am happy to explore that matter further.

Clause passed.

Clause 15 passed.

Clause 16.

The Hon. DEAN BROWN: I move:

Page 13, line 3—Leave out '6' and insert:
7

This amendment is consequential on changes that we have made to the composition of the board.

Amendment carried; clause as amended passed.

Clauses 17 to 19 passed.

Clause 20.

Ms STEVENS: Clause 20 provides:

A party to proceedings before the board. . . is entitled to be represented at the hearing of those proceedings.

Does that include a complainant?

The Hon. DEAN BROWN: There are two means by which one could take a complaint forward. A complainant could go to the Registrar, in which case the Registrar effectively becomes the complainant before the complaints committee; therefore, the person who had the original complaint would not be represented. However, they, of their own choice, can become the complainant under 54(1)(d) of the present act, in which case they could be there, or their legal representative could be there. So, by their own free choice, they can be there, depending on which part of the act they take in terms of lodging their complaint.

Clause passed.

Clauses 21 and 22 passed.

Clause 23.

Ms STEVENS: This clause relates to the annual report. It has been suggested to me that, as part of the annual report, there should be some details outlining complaints that have been received by the board during the year. Does that occur now and, if it does, in what form does it occur?

The Hon. DEAN BROWN: There is already a general broad summary in the annual report under a different heading—very much as, I think, was done with the Ombudsman, in that report to the parliament.

Clause passed.

Clause 24 passed.

Clause 25.

The Hon. DEAN BROWN: I now have a series of amendments to make. They all relate to the Medical Professional Conduct Tribunal. In fact, there is only one other amendment, and that deals with the insurance issue. So, there are quite a few consequential amendments that we are dealing with here. They are amendments that tidy up and improve on the operation of the Medical Professional Conduct Tribunal. There have been some difficulties in getting the appropriate membership of the tribunal together at present. Because it involves the judiciary, medical practitioners and outside representatives, the Chief Justice has asked for some changes to the legislation which might be able to facilitate being able to get a Medical Professional Conduct Tribunal together with greater expediency and expedition than we do at present. Therefore, there are a number of amendments that I now intend to move as we go through this—and I stress the fact that all of them are, in fact, recommended by, I think, the Chief Justice, through the Attorney-General. I will explain the amendment relating to clause 32 when we come to it, but all the others relate to the same provision. I move:

Page 17, lines 8 and 9—Leave out 'a person holding judicial office under the District Court Act 1991' and insert:
the Chief Judge of the District Court or any other Judge of that Court

Amendment carried.

Ms STEVENS: This amendment is consequential to my amendment in relation to the nomination of members to the Medical Practice Tribunal and, of course, this amendment was in relation to two medical practitioners, conducted in accordance with the regulations. I will withdraw that amendment.

The CHAIRMAN: So, the member will not proceed with that amendment?

Ms STEVENS: I will not proceed.

The Hon. DEAN BROWN: I move:

Page 17, line 18—Leave out 'suitable'.

Amendment carried.

The Hon. DEAN BROWN: I move:

Page 17, after line 19—Insert new subclause as follows:
(4) The requirements of qualification and nomination made by this section in relation to the appointment of a member extend to the appointment of a deputy of that member.

Amendment carried; clause as amended passed.

Clauses 26 to 31 passed.

Clause 32.

The Hon. DEAN BROWN: I move:

Page 20, line 31—After 'insured' insert:
or indemnified

Although I am told that this amendment is not necessary, it is to ensure that there is no legal dispute. Therefore, it inserts the words 'or indemnified' which specifically ensures that the Defence Association of South Australia is a recognised body. This will cut out any possibility of there not being appropriate insurance for the doctors, or a major legal argument after the event which may bring into question someone's insurance coverage.

Ms STEVENS: What would be the situation where someone would be exempted by the board?

The Hon. DEAN BROWN: An example might be someone who is purely a medical administrator and who could still be registered by the board, but because the member does not practise he or she does not need indemnity.

Ms STEVENS: Anyone who has anything to do with practising would not be exempted.

The Hon. DEAN BROWN: That is the intention, yes.

Amendment carried; clause as amended passed.

Clauses 33 to 41 passed.

Clause 42.

The Hon. DEAN BROWN: I move:

Page 26, after line 28—Insert new subclause as follows:

(5a) A person who contravenes, or fails to comply with, a condition of an exemption under this section is guilty of an offence.

Maximum penalty: $50 000.

Clause 42 provides for exemptions to be granted. This new subclause makes it very clear that contravention, or failure to comply with a condition of an exemption, is an offence. In other words, the board has the right to grant exemptions, but you must comply with a condition put down and, if you do not, then it is an offence. This is to clarify that point.

Ms STEVENS: Is it not similar to section 45 of the Dental Practice Bill, which has similar provisions in relation to restrictions on dental treatment? In relation to that act, the competition review had some concern. Did that apply also in the review of this act in relation to restrictions of practice? First, will the minister comment in relation to the competition review?

The Hon. DEAN BROWN: This is a pretty complex area. It is an issue under the competition review, but we have implemented it differently from that applying under the Dental Practice Bill because there are different ownership provisions. In terms of where the exemption applies, at this stage neither the Registrar nor I know of any examples, but that power is potentially there.

Ms STEVENS: The minister cannot tell me the nature of the exemptions he might give. I would like some examples of subclauses (3), (4) and (5).

The Hon. DEAN BROWN: It is very difficult to give examples because it is a new area, and we have not had a new board think through exactly under what areas there might be some form of exemption. You can come up with theoretical things, and the Registrar has suggested one, for instance, where a herbalist, who is a non-medical practitioner, is treating someone with cancer or something such as that. I am uncomfortable trying to give examples, because I think it is potentially unwise to be giving examples when it has not been considered by the new board and it is a new part of the act. It is one of those areas where the power is there, but it needs to be worked through with the new board.

Ms STEVENS: I thought that this had some application to corporatisation of practices, too. Am I not right in relation to that?

The Hon. DEAN BROWN: No it does not relate to that, because we have taken the limited company restrictions off the medical practitioners.

Amendment carried; clause as amended passed.

Clauses 43 to 54 passed.

Clause 55.

The Hon. DEAN BROWN: I move:

Page 33, lines 20 to 25—Leave out subclause (4) and insert:

(4) The board constituted of the member presiding over the proceedings may, sitting alone—

(a) deal with—

(i) preliminary, interlocutory or procedural matters; or

(ii) questions of costs; or

(iii) questions of law; or

(b) enter consent orders,

and may, for that purpose or as a consequence, while sitting alone, make any determination or order (including a final order) that the member considers appropriate.

In relation to proceedings, this amendment has been recommended by the Chief Judge of the District Court.

Amendment carried; clause as amended passed.

Clause 56 passed.

Clause 57.

The Hon. DEAN BROWN: I move:

Page 34—

Line 22—After 'member' insert:

or another judge of the District Court nominated by the presiding member to preside over the proceedings.

After line 26—Insert new subclause as follows:

(2a) The Tribunal, separately constituted in accordance with this section, may sit simultaneously for the purpose of hearing and determining separate proceedings.

Line 27—Leave out '(not being the presiding member)' and insert:

as constituted under this section (other than the person presiding over the proceedings)

Line 28—Leave out 'any' and insert:

the

Line 29—Leave out 'presiding member' and insert:

person presiding over the proceedings

Lines 31 to 33 and page 35, lines 1 to 3—Leave out subclause (4) and insert:

(4) The tribunal constituted of the person presiding over the proceedings may, sitting alone—

(a) deal with—

(i) preliminary, interlocutory or procedural matters; or

(ii) questions of costs; or

(iii) questions of law; or

(b) enter consent orders,

and may, for that purpose or as a consequence, while sitting alone, make any determination or order (including a final order) that the person considers appropriate.

Page 35, lines 4 and 5—Leave out all the words appearing after 'will be determined' and insert:

by a person presiding over the proceedings and any other questions by unanimous or majority decision of the members (unless there is an equal division of opinion, in which case, the decision of the person presiding over the proceedings will be the decision of the tribunal).

These amendments are all interrelated and have been recommended by the Chief Judge of the District Court, and I urge the committee to support to them.

Amendments carried; clause as amended passed.

Clauses 58 to 63 passed.

Clause 64.

The Hon. DEAN BROWN: I move:

Page 39, line 2—After 'Tribunal' insert:

constituted of the presiding member and two other members selected by the presiding member.

Again, this amendment relates to a recommendation made by the Chief Judge of the District Court.

Amendment carried; clause as amended passed.

Clause 65.

The Hon. DEAN BROWN: I move:

Clause 65, page 40—

Line 8—Leave out 'an order' and insert:

a decision

Line 9—Leave out 'an order' and insert:

a decision

Line 10—Leave out 'order' and insert:

decision

These amendments have been recommended by the Chief Judge of the District Court.

Amendments carried; clause as amended passed.

Clauses 66 and 67 passed.

Clause 68.

Ms STEVENS: I move:

Page 42—
After line 22—Insert as follows:
and includes a person who is a putative spouse in accordance with subsection (2);
After line 23—Insert new subclause as follows:
(2) A person is, on a certain date, the putative spouse of a medical practitioner of the same sex if he or she is, on that date, cohabitating with the medical practitioner in a relationship that has the distinguishing characteristics of a relationship between a married couple (except for the characteristic of different sex and other characteristics arising from that characteristic) and he or she—
(a) has so cohabitated with the practitioner continuously for the period of 5 years immediately preceding that date; or
(b) has during the period of 6 years immediately preceding that date so cohabitated with the practitioner for periods aggregating not less than 5 years.

This amendment inserts the clause that the opposition has tried to insert into a couple of the other bills that have come before the committee. It relates to the definition of the putative spouse and extends that definition to persons of the same sex.

Amendments negatived; clause passed.

Clauses 69 to 77 passed.

Clause 78.

The Hon. DEAN BROWN: I move:

Page 45, line 22—After 'insured' insert:
or indemnified.

Again, this is one of the insurance amendments to which I referred earlier and which is consequential on the earlier amendment.

Amendment carried; clause as amended passed.

Clause 79 passed.

New clause 79A.

The Hon. DEAN BROWN: I move to insert the following new clause:

(1) A person commits an act of victimisation against another person ("the victim") if he or she causes detriment to the victim on the ground, or substantially on the ground, that the victim—
(a) has disclosed or intends to disclose information; or
(b) has made or intends to make an allegation,
that has given rise, or could give rise, to proceedings against the person under this Act.
(2) An act of victimisation under this Act may be dealt with—
(a) as a tort; or
(b) as if it were an act of victimisation under the *Equal Opportunity Act 1984*,
but, if the victim commences proceedings in a court seeking to remedy in tort, he or she cannot subsequently lodge a complaint under the *Equal Opportunity Act 1984* and, conversely, if the victim lodges a complaint under that Act, he or she cannot subsequently commence proceedings in a court seeking a remedy in tort.
(3) Where a complaint alleging an act of victimisation under this Act has been lodged with the Commissioner for Equal Opportunity and the Commissioner is of the opinion that the subject matter of the complaint has already been adequately dealt with by a competent authority, the Commissioner may decline to act on the complaint or to proceed further with action on the complaint.
(4) In this section—
"Detriment" includes—
(a) injury, damage or loss; or
(b) intimidation or harassment; or
(c) discrimination, disadvantage or adverse treatment in relation to the victim's employment or business; or
(d) threats of reprisal.

I think the committee deserves an explanation for this clause. This clause is to protect doctors where they are working in a large non-medical practice, that is, a practice that is owned by a corporation. It protects the person from victimisation. If I can cover it very quickly: a person commits an act of victimisation against another person (the victim) if he or she causes detriment to the victim on the grounds or substantially on the grounds that the victim has disclosed or intends to disclose information, or has made an intent to make an allegation that has given rise, or could give rise, to proceedings against the person under this act. An act of victimisation under this act may be dealt with as a tort or as if it were an act of victimisation under the Equal Opportunity Act 1984. If the victim commences proceedings in the court, seeking a remedy in tort, he or she cannot subsequently lodge a complaint under the Equal Opportunity Act 1984. Conversely, if the victim lodges a complaint under the act, he or she cannot subsequently commence proceedings in the court seeking a remedy in tort. The reason for this is to protect doctors who may be working for a large corporate medical practice.

Ms STEVENS: Minister, from my reading of the amendment I did not realise it was just doctors; isn't it a person—anyone?

The Hon. DEAN BROWN: A person, any person: it may be a secretary, a nurse.

New clause inserted.

Clause 80 passed.

Clauses 81 to 84 passed.

Clause 85.

The Hon. DEAN BROWN: I move:

Page 47, line 14—after "Act" insert:
or the repealed Act

I think that this is simply a drafting amendment that is tidying up an omission that was made previously.

Amendment carried; clause as amended passed.

Clauses 86 to 88 passed.

Clause 89.

Ms STEVENS: Clause 89 (2) (c) provides that:

exempt any person or class of persons from the obligation to pay a fee or charge so prescribed;

I presume that refers to students? Would that be correct?

The Hon. DEAN BROWN: Again, it is hard to know what circumstances exactly but the student is the classic example where this could apply. As you would appreciate, under this legislation, for the first time, we are requiring medical students to be registered. I do not wish to impose a financial burden or penalty on them. This is being done for reasons of medical safety and the assurance of the quality of the health care. That could be a classic example but I do not, at this stage, wish to put down an absolute statement that no fee would be payable by them, but that could well be the sort of case where it might apply.

Clause passed.

Title passed.

The Hon. DEAN BROWN (Minister for Human Services): I move:

That this bill be now read a third time.

I formally acknowledge the cooperation of the House tonight in going through what is a complex piece of legislation containing 89 clauses. I appreciate the effort that the member for Elizabeth in particular has put in on this measure. I also want to acknowledge the positive way in which members of the House have treated the bill, which, as I have said, is breaking new ground. It has taken a long period—at least two years—to get this legislation to the House. I acknowledged

earlier the work that a large number of people have put in, but I failed to acknowledge the tremendous effort of Parliamentary Counsel. I sat down with Parliamentary Counsel and had some lengthy and vigorous discussions at various stages about what should or should not go into this legislation and how it should be drafted. In the space of just over an hour we have gone through the bill, and the fact that it has gone through this House so smoothly and has been dealt with in such a mature manner reflects the enormous amount of work and thought that went into the legislation before it got to the parliament.

I want to acknowledge my deep appreciation especially of members of my own staff who have lived with this matter at nights and over weekends. At times I know it has put a significant burden on the people involved. Members would have no idea of how much work this legislation has involved. It has evolved over the past 12 months and has required intense work indeed. I want to personally record my thanks again. Also I want to recognise the mature way in which the medical profession itself has been willing to look at where it should be heading and at the role of the Medical Board in that respect. We could have had hundreds or thousands of doctors trying to shoot this measure down and argue that they want to stick with their old ways and with tradition, but that has not occurred.

The AMA, the medical profession generally and members of the Medical Board should be acknowledged for the way in which they have been willing to see introduced in this parliament new legislation that breaks significant new ground without unnecessarily trying to stir up political storms. I express my appreciation for that, and I look forward to the implementation of this legislation once it no doubt passes through the upper house with its strong support.

Bill read a third time and passed.

PROTECTION OF MARINE WATERS (PREVENTION OF POLLUTION FROM SHIPS) (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 3 July. Page 1929.)

Mr HILL (Kaurna): It is my pleasure to speak to this bill on behalf of the opposition. I indicate at the outset that the opposition supports the bill. It contains a number of amendments to a 1987 measure which has been amended a number of times, and I will briefly go through those amendments, make some comments and indicate that we support them. I have a few questions I would like to ask the minister. The first amendment, which relates to section 8 of the act, provides that recklessness or negligence can be considered as a factor in determining whether or not an offence has been committed in relation to the discharging of oil or oily mixtures into state waters. Clearly that is a sensible provision to extend the penalties to cover negligence. Currently, only intentional acts of spillage are covered. Clearly, a whole range of negligent activities should be covered. I do not think there is any debate about the obvious nature of that proposal.

The second aspect of section 8 is to extend the responsibility from the master or owner of a particular ship to the master or owner's employee or agent. So, if the employee or agent is negligent or commits an act intentionally or is reckless, the owner or the master of the ship is caught as well. It extends the range of those who are responsible for intentional or negligent acts. The opposition believes that that is a sensible extension of the bill as well.

The second amendment is to section 18 of the act: it extends the bill in the same two ways I have just described in relation to the discharge of oil or oily mixtures into state waters and includes the discharge of substances, which I assume means noxious substances. It is extending the coverage of the bill to negligent discharging of substances into state waters and the discharge of substances into state waters by agents or employees as well. There is no problem with those provisions.

The third extension to the powers involves section 25A. This extends the notion of what is a prescribed incident. It extends the incidents which have to be reported and which can cause prosecutions to occur. Previously only discharges into the sea were considered as incidents which have to be prescribed. Now that has been extended to cover anything which:

(i) affects the safety of the ship, including collision, grounding, fire, explosion, structural failure, flooding and cargo shifting; or

(ii) results in impairment of the safety of navigation, including failure or breakdown of steering gear, propulsion plant, electrical generating systems or essential shipborne navigational aids.

This extends the coverage of the bill quite substantially, and that is to be supported. Not only spillages but also all these other events can cause damage. The next amendment is to section 26, which relates to the penalties that will be paid by those who discharge oil into waters from vehicles, etc. That extends the penalty for a body corporate to $1 million. Currently, a body corporate pays $200 000 which is the same as the penalty for a natural person. This provision brings the discharge of oil from non-shipping sources into the same kind of regime as the discharge of oil from ships (that is section 18 of the act), and that is supported.

I note that the bill does not amend the act in relation to the discharge of noxious substances from vehicles, etc., and that is a question I will be asking the minister when we go into committee. No doubt this extension of the penalty for corporate bodies has been introduced as a result of the spillage at Port Stanvac by Mobil, and at the time the maximum fine of $200 000 was considered to be too little. Even at $1 million, the penalty is possibly too low. There could well be incidents where damages could be considerably more than $1 million. So, $1 million is possibly too low as well. I would like to ask the minister a question about the recovery of costs of clean-up and whether or not the act adequately covers that.

The next amendment is new section 28A, which is the provision of a marine spill action plan. This, too, I believe stems from the Mobil spillage at Port Stanvac. A plan is to be developed and published under this section and it will be known as the South Australian Marine Spill Contingency Action Plan and, as a result of the amendments in the other place, that action plan will be tabled in parliament. I believe that is a result of confusion as to who was responsible for the clean-up when the Port Stanvac Refinery spillage occurred a couple of years ago. Questions were asked about the role of the EPA and other authorities, and there seemed to be some confusion about who should be doing what. So, to have a contingency plan seems to be a sensible provision.

The next amendment is section 40, which deals with immunity, and this extends the coverage of the immunity which would apply, I guess, to employees of the Crown

generally and to agents of the Crown as well. In particular, I think it refers to volunteers who may be engaged in clean-up operations in conjunction with Emergency Services paid personnel and Emergency Service volunteers, or people from local communities who may get out and clean up an oil spillage. It is quite sensible, I suppose, that those volunteers are protected in the event of an act which may result in a legal action.

The final amendment is that to section 43, which is described as prescribing matters by reference to other instruments. This provision allows for orders to be made under this act which can take into account other acts or regulations which may be brought in from time to time either under other state law or under commonwealth acts and, indeed, under codes published by the International Maritime Organisation. So, there is an extension there.

So, on the whole, I think this is an admirable bill. It extends the penalty regime; it extends the coverage of incidents which can result in charges being laid; and it provides better protection for those involved in clean-up. So, I think altogether that it is a commendable bill.

I point out one other matter to which the minister might care to respond. The last paragraph of the minister's second reading explanation states:

> The government will consider whether any further amendments to the Protection of Marine Waters Act are required after the completion of legal proceedings against Mobil for the July 1999 oil spill at Port Stanvac.

Those legal proceedings are now completed, and I am interested to know whether the government has considered that case and whether or not it believes that further amendments should be introduced.

The Hon. DEAN BROWN (Minister for Human Services): I thank the member for Kaurna for his contribution to this bill. He has raised some very valid points. We look forward to the committee stage to debate it further. I urge members to support the bill.

Bill read a second time.

In committee.

Clauses 1 to 5 passed.

Clause 6.

Mr HILL: I said in my second reading speech that the amendment to section 26 applies only to oil going into waters from offshore or from non-ship sources. Why does it not also cover other noxious substances which may be spilled, because the intention in the second reading speech, as I understand it, is to make the offshore or non-ship spillages equivalent to the ship spillages, and that part relating to ship spillages refers to 'oil and other substances', yet this amendment refers only to 'oil'?

The Hon. DEAN BROWN: I apologise to the honourable member because the departmental person is not present. Will the member accept a considered reply from the department to his question, or does it have a profound impact on the bill? If it does, we will adjourn and come back and deal with it at some other time.

Mr HILL: I think that it is possibly an oversight. I would assume that if you are trying to make it consistent with the provision in section 18, which refers to 'oil and other substances', this section should have 'and other substances' in it. The government may have deliberately meant it to be different. If so, there should be an explanation. If not, it probably needs an amendment to correct it.

The Hon. DEAN BROWN: As I said, unfortunately, the departmental person is not here. I apologise: the reason is that I had been told earlier this afternoon that this would not be debated today, because I understood that the opposition was not ready. So, I was not expecting to debate it. This is not my portfolio, you would appreciate. Therefore, if you wish, I am happy to adjourn this debate and we will consider it tomorrow if the honourable member and the opposition are happy to do that. Mr Chairman, I suggest that we report progress.

Progress reported; Committee to sit again.

JOINT COMMITTEE ON TRANSPORT SAFETY

Consideration of message No. 73 from the Legislative Council:

> That it be an instruction to the Joint Committee on Transport Safety to extend its terms of reference to require it to consider and report upon the National Road Safety Strategy 2001-2010 and the National Road Safety Action Plan 2001 and 2002.

The Hon. DEAN BROWN (Minister for Human Services): I move:

> That the resolution be agreed to.

This resolution relates to the Joint Committee on Transport Safety. I understand that the motion was moved by the Minister for Transport and Urban Planning in another place and had the support of all members in another place. As it is a joint committee this requires the support of the House of Assembly. I support the motion and would urge the House to do likewise.

Motion carried.

ADJOURNMENT DEBATE

The Hon. DEAN BROWN (Minister for Human Services): I move:

> That the House do now adjourn.

Ms HURLEY (Deputy Leader of the Opposition): I have recently been reading a document called 'Investing for tomorrow's fish: the FRDC's research and development plan 2000 to 2005', the FRDC being the Fisheries Research and Development Corporation. It is a clear and comprehensive plan for fishing on a national basis over the next five years. I was particularly impressed with discussions about sustainable development, cooperation of the various stakeholders and training and education within the industry. It is obvious from reading this document that the fulfilment of this plan will require good cooperation from the states' agencies and clear leadership and vision from those states in order to achieve the proper and sustainable growth of the fishing industry.

We are all aware of the importance of the fishing industry to South Australia. That is why I have been very concerned about the process of appointing a fisheries director within the department of primary industries. Since the resignation of Gary Morgan, an Acting Director of Fisheries has been in place for well over a year, and there has been a national advertising campaign for what is now being called the Fishing Policy Director. I think the title indicates that the role of fisheries within the department of primary industries has been downgraded, no longer has direct access to the minister and is merely part of a larger grouping within the department.

I am also concerned about whether proper process is being followed there. I have recently been given a copy of the 'Fisheries group management review' undertaken by the Jane

Jeffries consulting organisation and reported on in October 1999. Some of the findings of that report are still relevant today, and they are worth reading into the record. There was concern at that time about problems in the fisheries group within the department. The report states:

> This review has identified a number of critical management issues which are viewed by the consultant as severely impacting on the long-term viability of the group. It is clear that the group requires a significant change of management approaches of senior management members.

It goes on to state:

> Specifically the organisation must ensure:
> - the attitudes and behaviours of key managers change to eliminate what is perceived as arrogant, autocratic and disrespectful behaviour
> - new management approaches are adopted
> - performance standards are identified and monitored
> - managers lead by example
> - listen to staff
> - get the management team up and running again

Again, under the heading 'Vision and leadership' it continues:

> There was general agreement that the fisheries group lacks good and consistent leadership and that the Director has an important role to play in providing the required leadership. The current culture was negative and was seen as having an unfavourable impact on the ability of staff to work effectively.

I think in answer to my questioning the minister has at various times indicated that this report was one of the reasons that Dr Gary Morgan resigned from that position as Director of Fisheries. Indeed, as I just read, the Jane Jeffries report was critical of the Director in some senses in that he had an important role to play in providing vision and leadership, but the people management criticisms were not of the Director but of the managers working under the Director. The report goes on to talk about the management approach, and again I quote:

> The current dominant management approach was identified as a critical area of concern. The management approach was described as:
> - inconsistent senior management members had conflicting management styles which clashed and caused problems for the rest of the organisation
> - lacking in people management expertise
> - one senior manager was described as:
>   - overall very controlling
>   - autocratic
>   - disrespectful to staff

It goes on further to talk about the case of an individual manager and states:

> Key behaviours included:
> - credit not been given when due, that is, no recognition given to others
> - no responsibility taken for actions
> - seemed to prefer an aggressive approach, that is, openly yelling at staff members in corridors, very abrupt, etc.
> - bullying tactics, that is, staff feel it would be dangerous to give feedback as it will not be handled well; people scared to move, etc.
> - insensitivity to people's feelings

This type of management approach was seen by staff as a major contributor to the current levels of low morale and clearly linked to high stress levels and sicknesses.

Again, talking about staff relations, and team effectiveness, it states:

> Many examples were provided about the group's poor internal staff relations and inability to operate using team approaches, including:
> - staff view that they are being publicly put down by a senior manager during discussions with industry
> - no sharing of information
> - decisions overturned without consultation

These are extremely serious allegations, and I understand that there is no great improvement in the department since that report was handed down. I also understand that there was a limited field of applications for the new Fishing Policy Director. In speaking tonight I wish to emphasise that I believe that this is a critical position for our fishing industry. The fishing industry and the recreational fishers all have to work together very closely in the immediate future to develop a sustainable plan for our fishing industry. This will not succeed unless a director of fishing has leadership, vision, the full support of the people within the department and a clear ability to work as part of the team. I certainly hope that the minister recognises this and makes a wise decision which will have the full support of the fishing industry.

Mr VENNING (Schubert): This evening, I want to pay tribute to a very special person. As members know, we all rely very heavily on key individual people in our electorates. Tonight I want to speak about Margarete Luise Hale. She was such a special person to me and also to those members of parliament before me who have been fortunate enough to represent the Barossa Valley and regions. I would like to reflect for a few moments on the capacity and capabilities of this very fine lady. Margarete had battled cancer, and it finally took her on 21 June, almost two weeks ago.

Margarete was born in Aalen, Germany, on 14 August 1925. She was four years old when her parents and younger sister Elfriede migrated to Australia and settled in Tanunda. Marg attended Tanunda Primary School and was awarded dux of the school in grade 7. After her confirmation at the Bethany Lutheran Church, Marg was active in the Young People's Society. Her parents began a business which made egg noodles, which were sold to local shops and friends. Marg continued that business at her home until 1983, when the new factory was built—and we all know how famous the Weich noodles are. We have all enjoyed them, we have all sold them in raffles. It is a very famous brand name in the Barossa, and Margarete was instrumental in its success.

In addition to this business, Marg was also busy making mettwurst, and sent her daughters in all directions to sell these smallgoods. Margarete first became known to me as 'the mettwurst lady', when I was a teenager visiting local shows. She used to come around with Kalleske selling smallgoods, and she was the mettwurst lady to me when I was probably 14 or 15 years old. She always gave us mettwurst at the end of the day for being good people, and members of the committees of the shows, in particular, always received a sample of mettwurst. So, we all knew who Marg Hale was well before we entered this place.

Marg was a lady who shared an enormous amount of love and happiness. Anyone who knew Marg could never forget her lovely, affectionate nature. One of Marg's special strengths was her ability to organise—and I really do mean organise. This led to her involvement in the Tanunda Kindergarten, the Tanunda Women's Agricultural Bureau and the local and state branches of the Liberal Party. Marg's involvement with the Liberal Party spanned some 30 years and earned her many lasting friendships and much recognition. I feel very privileged to be one of those friends. If any member of parliament, or would be member of parliament who wanted to be a member for the Barossa and region, did not get along with this lady, they could forget about it.

I first went to the Barossa 20 years ago and renewed my acquaintance with Margarete Hale. And 10 years ago, when I had to make the decision whether to remain in the north as the member for Frome and jump back on to Frome as a new seat, or stay with the seat of Custance that was going south, including the Barossa Valley with the redistribution, it was Margarete Hale who said, 'Ivan, you stay with it. You stay with us and we will make sure that, not only will you keep your seat, but that you enjoy it.' I have to say that she was right on both counts. It was a big move to leave the north, but people like Margarete and hundreds of other people like her in the Barossa helped me make that decision, in hindsight, the right decision.

Marg had a passion for music, and many happy nights were spent around the family piano singing with family and friends. Marg was also a keen gardener. Her garden was always immaculate, as many members of parliament would know, because every year we had an annual fund-raiser in the garden, the famous Tanunda Twilight Tea, which was a magnificent venue, and we raised thousands of dollars. Certainly, in this area alone, she will be sorely missed. A lot of work will have to be carried out by many people to fill this gap. We will have to rise to that occasion. Marg's other interests included having lunches with the girls, playing bridge and taking a few special holidays.

Marg was presented with the Liberal Party's service medal two or three years ago, I think, and I know how much she cherished that. She wore that badge everywhere she went. Certainly, she knew a lot of members of parliament, and she really appreciated knowing the members and having some input not only into the running of the organisation but also into legislation. Tanunda branch, really, in all these years, was Margarete Hale. Tanunda—which is, arguably, one of the most successful Liberal Party branches, if not in Australia, certainly in this state—owes its fame and its success to this lady, who always had the ability to encourage others to come on board the party and join in and be enthusiastic about being part of the political system.

Marg believed very strongly in the two-party system, as I do. I think the reason we have had such a stable economy, such a stable parliamentary system and such a stable society here in Australia is that we have had a two-party system, and I will fight to do what I can to maintain that system. The way we are going, I do not know where we will be in a few years' time. I know that Margarete was very frustrated to see the likes of the Independents entering parliament, and when we consider that we could have a hung parliament after the next election—people are talking about a hung parliament—heaven forbid!

Ms Hurley: It's hung now.

Mr VENNING: We are in government, and that is quite clear. But after the election we might be trying to work out who will govern by the deals that could be done with three, four or five Independents. I hope that is not the case. I am very hopeful—in fact, I am confident—that the Liberal Party will win the election. But, if we cannot, and do not, the opposition should be the government. I firmly believe that. I know that Margarete was very passionate in the belief that we have two sides of politics: the capitalist side—or our side, the business side, the freedom of enterprise side—versus the socialist side. I know that these lines have fudged a little in recent years but those beliefs are still there.

Marg Hale was a very special person, particularly to me. She was one of those personalities one never forgets—bright, colourful, friendly, effervescent, dedicated and forever hard working. She fought cancer for almost a year and, at the age of 74, she died last week. She had a large funeral. It was a celebration of a life, a wonderful life—rather than a sad funeral. I was pleased to see other good friends there, including the Premier, John Olsen, and many other parliamentary colleagues. I was honoured to be asked to deliver the eulogy. Marg certainly leaves a wonderful family, centred around her three daughters, all of whom have the same flair and zest that they inherited from their mother. To Chris, Lill and Erica, thank you for sharing your mother with the community and with us—also Elfriede, Elfie to most of us, your beloved sister. Along with a huge circle of friends, I would like to express to you and the family our sincere condolences.

Motion carried.

At 9.57 p.m. the House adjourned until Thursday 5 July at 10.30 a.m.