HOUSE OF ASSEMBLY

Monday 26 August 2002

The SPEAKER (Hon. I.P. Lewis) took the chair at 2 p.m. and read prayers.

HOSPITALS, WESTERN

A petition signed by 12 042 residents of South Australia, requesting the house to urge the government to take immediate action to preserve medical and surgical services at Western Hospital, was presented by the Hon. Dean Brown.

Petition received.

SCHOOLS, FLEURIEU PENINSULA

A petition signed by 932 residents of the Fleurieu Peninsula, requesting the house to urge the Minister for Education to immediately commence planning and construction of the Victor Harbor TAFE College, Senior High School, Port Elliot Primary School and Victor Harbor R-7 School upgrade, was presented by the Hon. Dean Brown.

Petition received.

WIND POWER

A petition signed by eight residents of South Australia, requesting that the house oppose the construction of wind-farms at Sellicks Hill and relocate them to areas where they will not spoil the natural beauty, was presented by the Hon. Dean Brown.

Petition received.

Members interjecting:

The SPEAKER: Order! Honourable members will pay more respect to the occasion upon which the petitions, put to them by citizens of this state, are read for their benefit and edification. I think it is disgusting that those energies which are expended by members of the general public to put ideas before us as their elected representatives are treated with such disdain as I have just witnessed. Honourable members, during the course of the petitions, will take their place in the chamber.

AFL PRELIMINARY FINAL

The Hon. M.D. RANN (Premier): I seek leave to make a ministerial statement.

Leave granted.

The Hon. M.D. RANN: Last week I wrote to the Chairman of the Australian Competition and Consumer Commission, Professor Allan Fels, about the AFL's long-term contract with the Melbourne Cricket Club and with the MCG Trust. As a former Attorney-General, albeit only briefly—and I recognise that I do not need locus standi in this regard, although the Attorney-General would be the first to issue a fiat if any deficiency were found in my standing—although I have not seen the MCG contract, the MCC made it clear to me in a letter last week that the MCG contract ensures that AFL preliminary finals can and will be held only at the Melbourne Cricket Ground.

Let me repeat that: I have not seen the MCG contract, but the MCC made it clear in its letter to me last week which said that our position was futile, that this contract ensures that AFL preliminary finals can and will be held only at the Melbourne Cricket Ground. It appears to the government that this is anti-competitive, and this is why I have written to Professor Fels. We believe that Professor Fels is the independent umpire and will be able to make a fair ruling on whether or not the MCC or the AFL are in breach of the Trade Practices Act, which prohibits certain types of anti-competitive conduct. We have all heard about competition policy over the past few years, and governments, companies and organisations are required not to act in an anti-competitive way. I am prepared to stand by the decision of Professor Fels but, if the decision does not go in our favour, that will not stop the government and, I am sure, all members of this house from continuing to campaign for preliminary finals games to be played outside Victoria.

Last week, I wrote to the General Manager of the MCC and pointed out to him that there is an expectation in this state that if a club from outside Victoria finishes higher on the AFL ladder than its opponent it should be entitled to host an AFL preliminary final. It is in the interests of fair play that AFL clubs that earn the right to play in a preliminary final should be given the opportunity to host one in their own state. I received a very swift reply from the MCC, basically telling me that South Australia did not have a hope of hosting a preliminary final. As Premier, and I am sure with the support of all members, I do not believe the matter rests there.

Mr Speaker, I would like to outline today the legal case that the government is now arguing—the case that we are putting before Professor Fels. Our argument is that the MCG contract may be in breach of sections 45 and 47 of the Trade Practices Act 1974.

Members interjecting:

The Hon. M.D. RANN: I can see I am getting some support on those provisions. Section 45 of the act prohibits contracts, arrangements or understandings that restrict dealings or affect competition. It states that a corporation, such as the AFL or the MCC, shall not make a contract that contains an exclusionary provision or that substantially lessens competition in a market. An exclusionary provision, in effect, is a contract between two or more competitors that shuns another party. We believe the MCC and the AFL are very much competitors. We believe they compete in a range of markets, the markets for the use of sporting facilities, for sporting events and for entertainment services. In this case, we are arguing that the MCC and the AFL have a contract that ensures preliminary finals are held only at the MCG and that this contract excludes or prevents the operators of the AAMI Stadium from hosting a preliminary final.

I am advised that, even if the MCG contract does not contain an exclusionary provision, it may still be in breach of section 45 if the ACCC determines that it substantially lessens competition in a market. As well as potentially breaching section 45, I am advised that the MCG contract may contain provisions that breach sections 47(2) and (6) of the act. Sections 47(2) and 47(6) prohibit the practice of exclusive dealing. An example of exclusive dealing is when a party supplies services on condition that the person to whom it supplies the services (1) will not acquire services directly or indirectly from a competitor, or (2) will not resupply services acquired directly or indirectly from a competitor. My advice is that the MCC may be engaging in the practice of exclusive dealing in two ways: first, it is supplying the hire of the MCG stadium, and possibly catering and ticketing services, on condition that the AFL will not acquire those services from a competitor—that is, the operator of AAMI Stadium, and, secondly, it is hiring out the

MCG and providing services on condition that the AFL will not resupply those services to Port Power and Adelaide.

The final section of the act that I wish to explain is section 47(6). This section provides a type of exclusive dealing that is more commonly referred to as 'third line forcing'. The government believes that the MCC is engaged in third line forcing by hiring out the MCG Stadium on condition that the AFL will acquire goods or services of a particular kind from the MCG Trust. I am advised that the ACCC has powers under section 155 of the Trade Practices Act to require the AFL or the MCC to produce documents or information, or give evidence related to these matters. We believe that the ACCC, under this provision and under the direction of Professor Fels, has more than enough reason to obtain a copy of the MCG contract.

I am also advised that the ACCC has power to seek a broad range of remedies if it determines that there has been a breach of the act. It may, for example, fine the AFL and/or the MCC-MCG Trust for a breach of a provision of Part IV which attracts penalties of up to $10 million. So, I repeat that it has the ability to fine the AFL and/or the MCC-MCG Trust up to $10 million for a breach of this section. It also has the power to institute proceedings to prevent the continued implementation of the offending provisions of the MCG contract or, thirdly, to obtain an order to declare void the MCG contract or its offending provisions.

Professor Fels has told the media that he is taking this matter seriously, that it is an urgent and serious matter and that he will investigate the alleged contraventions of the act within the next week. Mr Speaker, I have seen some of the ludicrous things that have appeared in the Victorian press—the attack on South Australia which I regard as quite offensive.

If ever there was an example of the interstate bias towards Sydney and Melbourne, it was Tim Lane's commentary on *Grandstand* at the weekend (he is a Carlton supporter). But if ever there was someone who was not worth 8¢ a day, it was Tim Lane, following that interview. But for us to feel sympathy somehow on moral grounds for these poo-bahs, this 'brie and chablis set', who run the MCC, well, we will let the independent umpire decide. That is what we do in footy—we let the umpire decide; and that is what we are doing by giving Professor Alan Fels his opportunity to make a determination on this important issue.

TREE CONTROLS

The Hon. J.W. WEATHERILL (Minister for Urban Development and Planning): I seek leave to make a ministerial statement.

Leave granted.

The Hon. J.W. WEATHERILL: Today I wish to announce to members a review of the significant tree control provisions contained in regulation 6A of the development regulations 1993. Regulation 6A(7) of those regulations provides that I, as the responsible minister, must appoint a person to conduct a review of regulation 6A, which sets out the significant tree controls, and report on any other matter that appears relevant. That is to happen as soon as practicable after the two-year anniversary of the gazettal of the regulation. The appointee must provide a report to me within six months of their appointment.

Mr Speaker, I have appointed Commissioner Alan Hutchings as a suitable person to conduct the two-year review of the significant tree controls. Commissioner Hutchings is considered to be a suitable appointee because of his many years of experience in town planning and in the development of public policy, initially as an executive planner within state government and between 1989-2001 as a full-time Commissioner with the Environment, Resources and Development Court. He is a Life Fellow of the Planning Institute of Australia and also has experience in landscape architecture.

Commissioner Hutchings retired from being a full-time commissioner of the court last year and has since that time been appointed as a part-time commissioner. He will not sit on any cases in the court during the course of the review, and following the review he proposes not to take part in proceedings concerning significant trees. These measures are designed to remove any conflict of interest concerns associated with his appointment to undertake the review.

Commissioner Hutchings will be paid a sitting fee of $550 per day, or $330 per half day. This equates to the sitting fee paid to the Chairperson of the Major Developments Panel. Planning SA has budgeted $10 000 for the completion of this review. Regulation 6A specifies that the person appointed must report within six months.

As the interim controls expire at the end of the year, I have requested that the review recommendations be presented to me by mid-November 2002. Commissioner Hutchings will undertake the review without the assistance of a reference group but will have an opportunity to consult with a wide range of interested parties as part of the review. Members of the Legislation Unit of Planning SA will provide executive support to him during the review.

The independent review must have regard to those matters contained in regulation 6A (that is, the 2.5 metre trunk circumference threshold, the extent of the designated area and interim trunk circumference and height controls). The terms of reference for the review address these matters as well as additional issues such as reviewing the relevant provisions of the Development Act and considering the relationship of the significant tree controls to the Native Vegetation Act.

QUESTION TIME

HOSPITALS, PRIVATE PATIENTS

The Hon. DEAN BROWN (Deputy Leader of the Opposition): Will the Minister for Health immediately investigate whether patients at public hospitals are being discriminated against because they have private health insurance? Last Monday, a person was rushed by ambulance to the Royal Adelaide Hospital, arriving at 10 p.m. The patient was given a triage rating of 3 and was examined in great detail from 11 p.m. for several hours. I have a copy of the doctor's four page report.

At about 2 a.m. the wife of the patient heard a conversation between the younger treating doctor and another older doctor. The younger doctor said, 'I'd like to do a CT scan in the morning and keep him overnight.' The older doctor asked whether the patient had private health cover and the younger doctor said, 'Yes'. The older doctor then said, 'No. Discharge him, as he can do it on the outside.' The younger doctor then returned to the patient and said that he was to be discharged urging him to take the four page report to his GP first thing in the morning and to urge the GP to order a CT scan as soon as possible. This was at about 2 a.m. At the end of the four page medical report it states:

As has private cover, discharge.

There are then some abbreviations which I cannot understand. Next morning the patient's GP gave him a referral letter, which states:

> He recovered partially in casualty RAH and was sent home AS HAS PRIVATE COVER.

The CT scan, which was done a day later, cost the patient a personal gap of $120.

The Hon. L. STEVENS (Minister for Health): I am concerned to hear of this incident as recounted by the deputy leader. If he would give me the details, I will have it investigated because, as he knows, people should not be discriminated against in terms of our public hospitals if they have private health insurance. I am pleased to look into this matter.

Members interjecting:

The SPEAKER: Order!

ADELAIDE RAVENS NETBALL CLUB

Mrs GERAGHTY (Torrens): Will the Premier update the house regarding the Adelaide Ravens netball club and its future in national netball competition?

The Hon. M.D. RANN (Premier): I should, first, declare an interest in that I am the patron of the Adelaide Ravens and have been since its inception, and also for many years I have been an honorary vice-president of the Garville netball club.

An honourable member interjecting:

The Hon. M.D. RANN: No, I am not a patron of the Hindmarsh stadium. The honourable member should know that there are members on his side of the house who have a much stronger relationship in that regard which has been identified in an Auditor-General's Report. I am outraged—as are, I am sure, all members—about the decision of the All Australia Netball Association which ruled today that the Ravens shall not participate in national competition. Instead, they are allowing a combined Australian Institute of Sport/ACT team to enter the competition. It has been my view for many years that there has been enormous resentment in the peak body of netball in Australia about the fact that South Australian netball dominates not only national but also international competition. If you look at the world cup winning teams in netball over recent years, you will see that they have been dominated by South Australian netball players from either Garville, Contax, the Ravens or the Thunderbirds. So, we have had for many years this situation where there has been resentment in Sydney and Melbourne about the dominant position played by South Australian teams in netball. Even the recent Commonwealth Games gold medal winning team had, I think, five members from South Australia.

So, this is an act of infamy by the All Australian Netball Association to strike out the Ravens, whilst maintaining two teams in Sydney and two in Melbourne. This is a unilateral decision. There was no proper consultation with the Ravens. As I understand it from my discussions with Daphne Crowhurst, she was not even directly contacted or spoken to by the national body. Indeed, when I spoke to her a few minutes ago I understand that she was told about the decision only five minutes before they made a public announcement.

For many years now there have been concerns about the All Australian Netball Association and the fact that netball is administered poorly at the national level. We have heard of jealousies, rivalries and rancour about the fact that South Australia leads the way in netball and, instead of encouraging or rewarding success, we have the national body striking out the Ravens to set up an AIS/ACT team.

I have told Daphne Crowhurst that, whatever the Ravens would like me to do, I am happy to do, not just as patron but also as Premier of this state. This is an outrageous act of infamy by the national board of netball, which has been unable to bring netball into the 21st century and is now seeking revenge against those who have done well.

HOSPITALS, PRIVATE PATIENTS

The Hon. DEAN BROWN (Deputy Leader of the Opposition): My question is to the Minister of Health on the same issue that I raised previously. Will she concede that any discrimination against patients in relation to the treatment they receive in a public hospital on the basis of their health insurance status is a very serious breach of the Australian health care agreement?

The Hon. L. STEVENS (Minister for Health): Yes, I would.

The Hon. W.A. Matthew interjecting:

The SPEAKER: I wonder whether the member for Bright has.

NATIONAL COMPETITION PAYMENTS

Mr SNELLING (Playford): Will the Treasurer update the house on any further discussions that may have been held with the National Competition Council about commonwealth government competition payments to this state?

The Hon. K.O. FOLEY (Treasurer): I thank the honourable member for his very important question at a very important time. I met on Friday with Mr Graeme Samuel, the President of the National Competition Council, to discuss competition payments to South Australia. As members would be aware, we are waiting for a recommendation from Mr Samuel of the NCC to the federal Treasurer that the state will receive the $57 million competition payments scheduled for payment through the course of this financial year. I advised the house earlier that I was hopeful that this would proceed on time and that it would be a fairly smooth process, because I felt that our package of reforms introduced into this house as they related to shopping hours would be sufficient to meet those requirements.

I became a little concerned earlier last week when it appeared that this may not be the case, and the Minister for Industrial Relations met with Mr Samuel in Melbourne on Thursday to discuss this matter, and I did so on Friday. I advise the house that I have received a letter today from Mr Samuel, and I will quote it in part, as follows:

> Dear Treasurer
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> I refer to our recent discussion on this subject. I confirm that the council does not believe that it is in a position yet to make any recommendation to the federal Treasurer on 2002-03 competition payments for South Australia because South Australia is still to implement reforms to its retail trading hours legislation. Accordingly, the council has deferred making a recommendation that payments should be made to South Australia until this matter has been resolved.

It goes on, in part, to refer to the 1999 and 2001 assessments when the former Liberal government was not able or prepared to make necessary reforms. He does, of course, point to the fact that the then Liberal government, 'we understand, had a review of shopping hours done for its cabinet that has never been released that we are not able to access'. That report would be very interesting reading one would think, but it was never released. I am advised that it is archived, but we are checking that through. Mr Samuel goes on to say:

The council considers that implementation of the reform proposal introduced into the parliament on 14 August 2002 would address South Australia's competition obligations for the 2002 assessment.

He goes on to point out that he would be interested in further reform and further work and that those discussions will be ongoing and, indeed, the minister, I understand, referred to further reviews down the track.

The important point is that we now have official advice from the National Competition Council that the $57 million will not be recommended by Mr Samuel to the federal Treasurer, Peter Costello, until such time as this parliament decides what it will do with shopping hours legislation. If the Liberal opposition wants to block or send it to the select committee simply to frustrate the government's reform agenda, then clearly up to $57 million is at risk. Just how much of that money may be withheld we do not know. It may be that Mr Samuel will make recommendations that a portion of that money should not be paid to us as a fine for non-compliance with national competition policy—we do not know. However, what we do know at this stage is that the $57 million required by this budget for this state has been put on hold by the National Competition Council: no recommendation taken until members opposite decide whether they will support modest reform, decent reform, or whether they will be blockers, whinges and knockers and frustrate the government's legislative agenda.

I would hope, given that money is at risk—not necessarily all the $57 million, certainly a portion of it—that, over the course of the next 24 hours, the Liberal Party could give it a little thought and decide whether or not it wants to put this state at any financial risk, as well as wanting to frustrate the government's modest reform agenda. I would appeal to members opposite to move forward and be in a position to support our modest reform proposal to ensure the $57 million flows to us.

TRANSPORT SA

The Hon. R.G. KERIN (Leader of the Opposition): Will the Minister for Transport advise the house if the government consulted with industry prior to making the decision to remove credit card facilities for the retail motor industry at Transport SA? Will the minister advise the house whether the government will still expect the small businesses it pays by credit card to accept them and continue to carry the cost of these facilities? I have been advised by the Motor Trade Association that it does not support the government's proposal and remains sceptical that Transport SA has a viable electronic alternative.

Credit card facilities have allowed these small business operators to pay vehicle registration transactions, such as registration, compulsory third party insurance and stamp duty without physically having to send staff, quite often large distances, to a Transport SA office. The association also points out that, while the government seeks to decrease its operating costs through reduction in services, it still expects the small business operators it uses to maintain credit services and bear the cost.

The SPEAKER: I am also interested in the answer from the Minister for Transport.

The Hon. M.J. WRIGHT (Minister for Transport): I thank the Leader of the Opposition for his question and I will bring back a detailed reply to the house.

WIND POWER

Mr HANNA (Mitchell): Can the Minister for Urban Development and Planning advise the house of the current status of the proposed wind farm at Myponga-Sellicks? A weekend newspaper report indicated that the future of this project is in doubt because the proponents were considering withdrawing.

The Hon. J.W. WEATHERILL (Minister for Urban Development and Planning): In my capacity as minister responsible for the Development Act, just over two weeks ago, on 11 August, I directed that the application before the Development Assessment Commission for a wind farm in the Sellicks-Myponga area be assessed as if it were a major development. The proponent of the development application, Trust Power, is proposing to establish 20 wind turbines on the ridge line between Sellicks Beach and Myponga. My direction now means that the planning and environmental merits of this proposal will be assessed under the more comprehensive process associated with major developments. This application is the first that proposes a significant wind farm development in close proximity to residential areas. The way in which future wind farms are dealt with in this state is likely to be shaped by the outcome of this proposal. The scale and impact of wind farms have not been experienced by the South Australian community, given that they are a relatively new concept.

This assessment process will ensure that the issues of concern to the broader community are appropriately identified and thoroughly investigated. The major development assessment process will commence with the public release of an issues paper by the independent Major Projects Development Panel. The paper will identify the issues and allow the community to comment on the impacts required during the detailed investigation.

A range of community concerns have been expressed about 20 wind turbines on prominent ridge lines, and the more comprehensive process of assessment will no doubt address those concerns. The next step is for me to be provided with some advice and ultimately it is a matter for decision of the Governor on the advice of Cabinet in Executive Council.

To say the least, it was surprising to read the article in the *Sunday Mail* that the honourable member alludes to. I had no indication from Trust Power that it was re-evaluating its position. In fact, prior to that, it had sought a meeting, which is in the process of being arranged. The manager of Trust Power has suggested that the delay in the somewhat longer assessment process could somehow cause or contribute to an energy crisis. While we support wind power as an important means of replacing energy generation with energy generation from renewable sources, the issue facing South Australian consumers is peak electricity demand and, unless the wind is blowing on hot days, it will not always solve that problem for us. They are not going to grapple with this serious issue of pricing that the Minister for Energy is spending so much of his time working on. I must make one point to the house and to proponents, not only this proponent but proponents generally, and that is the veiled threat that there might be an abandonment of the project and a move over the border because we have sought to impose a more rigorous process of assessment.

The SPEAKER: Order! I advise the photographer in the gallery that the terms and conditions under which photographers are admitted to the gallery are that they will photograph

only those members on their feet. If the photographer is thinking of photographing any other member of the government back bench, I remind him that he may find himself elsewhere shortly. The minister.

The Hon. J.W. WEATHERILL: In conclusion, this proponent has, in the course of the material that is contained in the *Sunday Mail*, somehow suggested that it may be moved over the border because we have taken this somewhat longer process of assessment. The first thing I have to say about that is that it is a matter for that company, and it will make its own commercial decisions. The second thing I will say is that we will not be deflected from this path of more rigorous assessment. The third point, which is an important point not only for this proponent but any other proponents of developments in this state, is that the previous government might have jumped when companies issued threats, but this government does not.

EDUCATION, CAPITAL WORKS

Ms CHAPMAN (Bragg): Has the Minister for Education and Children's Services failed to provide a schedule of capital works projects for 2002 within two weeks of the budget being handed down, or at all, thereby denying South Australia its capital funding payments to proceed for some of this year's projects? The budget was handed down on 11 July 2002. The state is obliged to submit in two weeks its schedule of recommended projects for 2002, but as at 16 August 2002 it had not done so. The federal minister has given notice to the minister that no further capital funding payment can be made until an acceptable schedule of recommended projects has been received and accepted by him. South Australian schools are waiting.

The Hon. P.L. WHITE (Minister for Education and Children's Services): I point out to the member for Bragg that at this time the budget has not passed through the parliament.

TOBACCO, HOSPITALITY VENUES

Ms THOMPSON (Reynell): Will the Minister for Health outline to the house measures that she is taking towards reducing the harm caused by tobacco use and smoke in hospitality venues?

The Hon. L. STEVENS (Minister for Health): Tobacco use continues to be the single most preventable cause of disease and death in South Australia. About 75 000 hospital bed days each year are due to tobacco exposure, and total tobacco health costs to the state are in excess of $1 billion each year. Non-smokers, including children, experience discomfort and illness such as asthma due to environmental tobacco smoke, and this government is committed to a range of tobacco control initiatives.

Proposals being examined include banning smoking in shopping malls and arcades, strengthening measures to prevent the sale of tobacco products to minors and regulating point of sale advertising of tobacco products. I have established a task force into smoking in hospitality venues in response to growing concerns about the health and comfort of patrons and staff in licensed premises and gaming venues. The state government and the hospitality industry are coming together to look at extending smoke free areas in these venues.

This task force will provide advice on measures, including legislative changes and time lines to extend smoke free areas and review evidence about the health effects of exposure to tobacco smoke in these sorts of venues. It will review evidence and advise on the anticipated health, social, environmental and economic impact of the introduction of additional smoke free areas in licensed premises and gaming venues in South Australia. Because such changes would have implications for the industry, this task force gives it the opportunity to be fully involved in the process of tobacco legislation reform, and I certainly welcome its involvement. This is about working with industry in an attempt to strike a balance between protecting staff and patrons and providing certainty for the industry itself. The task force, which has broad industry representation, will be chaired by the member for Reynell. I have asked for a report from it by December 2002.

EDUCATION, CAPITAL WORKS

Ms CHAPMAN (Bragg): Again I direct my question to the Minister for Education and Children's Services. Will the minister confirm that $1.5 million will now be paid to the Gawler Primary School and Orroroo Area School for the capital works projects which were previously approved and which have now been abandoned by this government? In 2001, the state government received $1.2 million for the Gawler Primary School development and $300 000 for a project at Orroroo Area School. The previous state government had also allocated funds but the projects have now been deferred by this government. The federal minister, the Hon. Brendan Nelson, wrote to the minister (on 16 August last) advising that $1.5 million would be withheld from the 2002 commonwealth allocation unless that state undertook works at least to the value of the commonwealth grant approved for those schools: that is, pay over the money. The letter also states that projects for this year will therefore be put at risk unless the minister attends to that state's obligation.

The Hon. P.L. WHITE (Minister for Education and Children's Services): The projects for Gawler Primary School upgrade and Orroroo have not been abandoned; they have been deferred. Money has already been spent on these projects. Approximately $50 000 has been spent on Gawler Primary School and approximately $30 000 spent on Orroroo in preliminary planning for those projects. The issue about Gawler Primary School and the reason for its deferral is that it was a project that was on last year's capital works program. It was meant to commence in November last year, I believe. It was not started by the previous government. In fact, the land on which the planned upgrade was to occur was not even owned by the department and had not been acquired. That land is not available to the school and so further options have to be looked at for that particular planning project. It was not possible to proceed in this financial year given that the land on which the particular design for the school depended had not—

Members interjecting:

The Hon. P.L. WHITE: This refers to Gawler Primary School. It was not possible to proceed. Expenditure on the project has commenced, and there is a priority to develop that school, but we have had to go back to the drawing board for further planning now that that option, initially preferred by the school, cannot be pursued, given the fact that we do not own the land on which it had been predicated. We did not own the land at the time last year when the previous government was supposed to commence that project. As that issue

had not been resolved by the previous government, it is a bit rich for the opposition to come in here and cry foul when it did not commence that project. It is also a bit rich for the opposition to talk about projects on the capital works list, given its underspending of the capital program by $124 million in its term of government.

The member for Bragg is talking about commonwealth funding. Let me inform the house that, back from the year 2000, four school building programs involving commonwealth funding were not commenced, and I believe that two of those—I stand to be corrected if I am wrong—are yet to commence. So, again, it is a bit rich for the opposition to come in here and play politics on this matter, given its record of chronic underspending. If the previous government had spent that $124 million on school projects, projects that had been confirmed by this parliament in the capital works portion of those budgets, we would not be under pressure as we are. This government had to come in and fix it all up.

So, the opposition cannot now talk about press releases from the federal minister when its underspending and slippage of the program has left the state in this pressured situation. This government has increased funding on what the previous government left it in the forward estimates. That amounts to some $10 million extra that this government has allocated to school building projects. Also, if one compares that to the overall $156 million extra, budget to budget, that this government is investing in education as a whole, one realises that it is fairly rich for opposition members to stand up in this place and criticise this government, which is left with the hangover from the former government's performance on capital works.

SCHOOLS, AWARDS

Mr RAU (Enfield): Will the Minister for Education and Children's Services tell the house about the achievements of a South Australian government school and a science teacher in national award ceremonies last week?

The Hon. P.L. WHITE (Minister for Education and Children's Services): I thank the member for Enfield for his question, because I alert the house to the fact that South Australia has once again made its mark on the national awards scene. Last week, a government school and one of our teachers won the accolades of the nation: Marianne Nicholas from Walkerville Primary School was named one of Australia's best science teachers and, the following day, Urrbrae Agricultural High School won a National Landcare Award.

Mrs Nicholas, who was the sole national recipient of the award, was honoured for excellence in science teaching in primary schools. It is not the first time that Mrs Nicholas has had such an honour bestowed upon her: last year she was recognised by the South Australian Science Teachers Association with an Outstanding Teacher Award in the junior primary category. That award was in recognition of her unique teaching approach, which is quite clearly providing students with an exciting way to learn about science.

Mrs Nicholas's achievement reflects the exceptionally high standards of teaching and learning that are being provided to children and students in our government schools. She will now join Ms Helen Paphitis, the principal of Salisbury High School, on a national committee to undertake a review of teaching and teacher education. Both teachers were nominated to that position and are to be congratulated for the national recognition they have earned.

Urrbrae Agricultural High School also deserves congratulations for winning the Westpac Education Award ahead of finalists from each state and territory. That school stands out in South Australia with its designated focus on agriculture and the environment. It plays a vital leadership role in landcare and agricultural education for the whole state in terms of providing direction, information and professional development to teachers and schools. Urrbrae is the only school in Australia to have an urban constructed wetland that serves as a stormwater retention basin to improve the water quality of the Patawalonga River. A learning centre on the wetland has attracted more than 12 000 student visits since it was opened in 1997.

The school's nomination states that its landcare learning activities have been implemented in a range of on-ground action projects on the school site, as well as in the nearby and broader South Australian community. Some of its key projects are revegetation of the Kangaroo Island habitat of the endangered glossy black cockatoo; the Urrbrae trails program as ecotourism guides; the native animal program as breeders of endangered species; and bush care action projects in the nearby Waite Conservation Reserve.

TEACHERS, PRIMARY

Ms CHAPMAN (Bragg): Has the Minister for Education and Children's Services received a report from her working party recommending the schools to be allocated the 160 new primary school teachers for the 2003 school year, and will the minister provide the house with the selection criteria being used for this allocation process? On 6 August, at the estimates committee, with respect to new teachers, the minister said:

> The mechanism by which they will be deployed, which is being negotiated at this time through the working party, will be on a needs basis.

No details regarding the criteria of this 'needs basis' were provided or have been forthcoming. Despite the fact that commencement of the 2003 year is now less than five months away, we still have not been advised of the criteria and still have not been informed which schools have been classified as high-need priority.

The Hon. P.L. WHITE (Minister for Education and Children's Services): The measure to which the member for Bragg refers is the provision of an extra 160 junior primary teachers which will have the impact of reducing class sizes in the early years of schooling. That was a commitment that was given by this government in the election campaign and is one that has been honoured in the most recent state budget.

As I have indicated several times to this house, a working party was set up to provide me with options about the best way to allocate those teachers who will be in place for the start of the next school year. Several options have been explored with the Australian Education Union in consultation with the department, the Primary Principals Association and the Junior Primary Principals Association, and once those have been allocated—and we are currently about to do that—I will be able to provide the honourable member, and indeed the house, with more information about which schools will benefit from those allocations. But what is quite clear in the mind of the government, and certainly the minister, is that these should be allocated to those schools that have the highest need for them.

OFFICE OF SUSTAINABILITY

Ms BEDFORD (Florey): Can the Minister for Environment and Conservation advise the house of actions already undertaken by the newly established Office of Sustainability in the light of the Green City Workshop hosted last week by the Capital City Project?

The Hon. J.D. HILL (Minister for Environment and Conservation): I thank the honourable member for her question, and I note her ongoing interest in issues to do with sustainability. I had the pleasure of attending the Green City Workshop for at least part of a morning last week with the Premier.

An honourable member interjecting:

The Hon. J.D. HILL: The member asked if I drove—but, no, I walked from my office to the Green City Workshop, and I walked back as well. There is a great deal of interest in the community, and across government, on sustainability issues. Whilst it is true that at the last election health and education were the top priorities that the Labor Party put to the electorate, in addition to that we put a very strong environmental agenda, central to which was the issue of sustainability.

The government has embarked on a substantial environmental reform to develop a shared strategy with the community and business for sustainable ecological development. There are a number of examples that this government has implemented, and I will briefly go through some of those. We have embarked on a waterproofing Adelaide plan, which is a 20 to 50 year strategy to explore water use and opportunities for water reuse across Adelaide. In the long term this will reduce our dependence on water from the Murray River.

We have also embarked on a parklands action plan to focus on conservation values and sustainable use of our precious parklands. We are also developing a sustainable SA greenhouse strategy with particular emphasis on energy and transport demand management in order to reduce greenhouse gas emissions.

The government has also established an Office of Sustainability, which is to map out an ambitious agenda for the achievement of environmental sustainability. This office was established on 1 July, and its role is to develop a whole of government approach to sustainable development. To date, some of the priorities of that office are: improved waste management practices which minimise waste and endeavour to utilise it as a resource; partnership with Energy SA to increase the use of sustainable energy; a review of environmental regulations; and options for the development of a Green Business Unit to work with the private sector on environmental initiatives; in addition, implementing the government's Green Print accountability document as part of the State of the Environment Report 2003.

This office will work with other key agencies such as Planning SA, the Land Management Corporation, the Office of Economic Development, Transport SA, the Office of Local Government, the Health Promotion Unit of DHS, and the Premier's Science and Research Council. They will deliver genuine across-the-board whole-of-government actions to make Adelaide a true green city. The Office of Sustainability will broker outcomes on behalf of the government in partnership with programs such as Local Agenda 21, the Water Conservation Partnerships and the Green City Project. The Premier has put the environment at the top of his vision for South Australia. The Office of Sustainability will be a key strategic vehicle that sees Adelaide emerge as Australia's greenest city.

AFL PRELIMINARY FINAL

The Hon. R.G. KERIN (Leader of the Opposition): Will the Premier assure the house that the information provided in his ministerial statement regarding attempts to ensure that a preliminary final is held in South Australia is totally correct?

Mr Koutsantonis interjecting:

The Hon. R.G. KERIN: Listen for a tick, Tom. The opposition—

Members interjecting:

The SPEAKER: Order!

The Hon. R.G. KERIN: Just listen. The opposition supports moves to ensure that a preliminary final is held in Adelaide regardless of whether the Power beat Brisbane this Saturday or not. The ministerial statement contains several paragraphs which are very much at odds with available information and, if correct, would be of major concern—and I think it would be useful to clarify a couple of those. In his ministerial statement, the Premier stated that the MCC told him by letter:

> This contract ensures that AFL preliminary finals can and will only be held at the MCG.

On several occasions, this ministerial statement contradicts the general understanding that at least one preliminary final can be—and this year because of the standings will be—held interstate. The ministerial statement also says that the contract excludes or prevents the operators of the AAMI Stadium from hosting a preliminary final and it also quotes the MCC as saying that South Australia has no hope of hosting a preliminary final. Is this statement correct or will Adelaide host a preliminary final if the Power finish top, as has been generally understood. As an aside, I hope the government has not given up on the Power winning this Saturday and finishing top.

The Hon. M.D. RANN (Premier): I possibly confused members opposite when I dealt with matters—

Members interjecting:

The Hon. M.D. RANN: —in locus standi. It is quite clear that when I said 'in locus standi' even the member for Bragg looked slightly amazed. When I said that the Attorney-General was prepared to issue a fiat in terms of whether there was any problem with our standing on this matter, I heard one member say, 'Not a Fiat Bambino'. I will try to simplify matters. The MCC told us last week that our attempt to get a preliminary final here—not the one that will be held in Brisbane, but the second one—would be—I think the word used was—futile. That is what we are fighting. If I have in any way unintentionally misled the house, I will provide the leader with a copy of the letter from these pooh-bahs in Victoria. They are so arrogant. Can you imagine if it was the other way around—if it was Essendon v Carlton being held at the AAMI Stadium—you would have Tim Lane and the *Sun Herald* and everyone else beating the drums.

I am prepared to say that, if I have misled members opposite in any way by using legal and technical terms with which they are unfamiliar, I will check my statement and make sure that the Leader of the Opposition has the firmest understanding on any issues of justiciability.

The Hon. L. Stevens interjecting:

The Hon. M.D. RANN: No, it has nothing to do with a writ of mandamus at all: it is quite a different issue. I will try

to solve the matter to the satisfaction of the Leader of the Opposition so that we can march together in this campaign to win a preliminary final in Adelaide.

BASKETBALL ASSOCIATION OF SOUTH AUSTRALIA

The Hon. D.C. KOTZ (Newland): Will the Minister for Recreation, Sport and Racing confirm that the government has financially assisted the Basketball Association of South Australia with the sum of $800 000, and will he advise the house why this payment was kept secret from the public?

The Hon. K.O. FOLEY (Deputy Premier): It has nothing to do with keeping anything secret from the parliament. One of the many problems I inherited on becoming Treasurer of this state was the financial affairs as they relate to the Basketball Association here in South Australia and the Powerhouse. I advise the house that I am in negotiation with the Basketball Association of South Australia, and will be in a position to make some announcements shortly about some relief that we are providing. The former Treasurer (Hon. Rob Lucas) provided special one-off assistance to the Basketball Association last year, from memory, which assistance was required given its difficult financial position. On Labor's winning office, the association approached me and asked whether the government was prepared to write off the outstanding debt of the Basketball Association completely. I advised the house that that was not an option that in the end we were prepared to support, but we have put forward a number of measures. We are waiting for final sign-off on those arrangements. Once we have them, I will be happy to advise the house.

MURRAY RIVER

Mr BRINDAL (Unley): My question is directed to the Minister for the River Murray. Has the minister contacted his Victorian counterpart to express his concern at the diversion of water from the Murray to the Snowy River at a time when Australia is in the grip of a drought and before any offsetting water arrangements are made? On Wednesday this week 38 000 megalitres of water will be diverted from Mowamba Creek across from Lake Tindale into the Snowy River. Originally, the Victorian and New South Wales governments agreed that such diversions would be matched by water savings in the Murray, but now these off sets will be borrowed from some time in the future. South Australia is struggling this year to get its entitlement flows. The net effect is that 38 000 megalitres less this year will reach the Murray Mouth.

The Hon. J.D. HILL (Minister for the River Murray): I thank the member for this important question. I remind the member that when he was the minister responsible for the Murray River he entered into agreements. In fact, I think he signed some documents in relation to diversions into the Snowy scheme which bound the South Australian government to signing a deal with New South Wales, Victoria and the commonwealth over the corporatisation of the Snowy scheme. The arrangements he is now talking about and questions he is raising were part of that deal. When Labor came to government, we looked at that arrangement and put an enormous amount of pressure on the Victorian government, to the extent that the Premier was able to reach a separate and side deal with the Victorian Premier—

Mr Brindal interjecting:

The Hon. J.D. HILL: That's right—an extra 30 additional gigalitres of water, and we are in the process with the Victorian government of going through how we can identify that water.

Members interjecting:

The Hon. J.D. HILL: Well, we are working on it, as the honourable member would know. It is difficult to find water quickly, and we are going through the process of getting some of that water as quickly as we can. There is no doubt that we are in a parlous state at the mouth of the river at the moment. As I have said repeatedly here and outside, the mouth of the River Murray is likely to close at some stage this year. Currently, a very small amount of water is getting through, and we are looking at a range of options, including dredging through it.

I have been speaking to the Murray-Darling Basin Commission and have communicated with my colleagues in the eastern states over the expenditure of money to have that dredging through. We are going through a technical assessment at the moment. The Murray-Darling Basin Commission has agreed to the expenditure of money, including the hiring of a dredge to facilitate the operation once the commission makes its decision on it. That decision is expected on 17 September. That is the best we can do under the circumstances. In the longer term we need to find additional water. We probably need between 2 000 and 3 000 gigalitres of additional water each year. We are working with the other states to find water. Fortunately, back in April at the Murray-Darling Basin Ministerial Council the states which comprise that council agreed that more water was required, and a process of finding that water is now being undertaken. We are looking for water in terms of 375, 750 and 1 500 additional gigalitres of water. If we could get that additional water that would go substantially towards improving the health of the river and ensuring that its mouth stayed open.

Unfortunately, at the moment, we have two problems. We have a longer-term problem because we are just taking too much water out of the river: 73 per cent of the normal flow comes out of the river year after year, and we have had a series of drought years, so that has meant that there has not been sufficient flow this year to clear the mouth of the river. Currently at the mouth of the river there is between one and two million cubic metres of sand, an enormous amount of sand. I saw a photograph of it taken only a couple of weeks ago which shows that just a mere trickle is going through the mouth at the moment: it is absolutely tragic. We need to do all we can but, unfortunately, the arrangements that the former government entered into and began with the other states over the corporatisation of the Snowy River means that we cannot get water that is put through for the Snowy River.

BIOTECHNOLOGY INNOVATION FUND

Mr O'BRIEN (Napier): Will the Minister for Science and Information Economy inform the house what support the state government will provide to the two South Australian companies which have received funding from the commonwealth biotechnology innovation fund?

The Hon. J.D. LOMAX-SMITH (Minister for Science and Information Economy): This assistance is provided through the Bio Innovation SA fund, which was set up by the Leader of the Opposition, whose leadership we must acknowledge at this moment. The funding comprises $4.5 million of seed money which is to be spent over four years to provide grants for early stage companies, companies

that are applying for federally awarded grants under the biotechnology innovation fund (BIF). BIF is a merit based competitive grants program that aims to increase the rate of commercialisation for small biotech companies. As the Leader of the Opposition will know, at this stage companies have difficulty in demonstrating proof of concept to a stage where they can apply for even angel funding let alone venture capital funding, and it is at the early stage of the development of these small industrial groupings that they really require assistance.

Grants are provided in the BIF scheme for up to $250 000 for eligible firms but on a dollar for dollar basis. To leverage the federal BIF money, Bio Innovation SA has worked closely with those companies that are ready to enter the funding round. It develops their bids and assists them in developing strategies to go forward and apply for this money. To date, Bio Innovation SA has had a 60 per cent success rate and in this, the third round of BIF funding, two local firms were successful. Those two companies were Micronix Pty Ltd and Australian Orthopaedic Innovations Pty Ltd. The Micronix company is an extra corporeal imaging system that is taken to the bedside of patients who have intravenous catheters and it is used to localise and prove that they are correctly positioned. It is a revolutionary device that will save considerable morbidity and mortality in medicine.

Australian Orthopaedic Innovations is responsible for producing an extraordinary piece of equipment designed for handpiece controls in drilling screws and metal components into bones. Its utility is such that it allows the screws to be positioned at the right pressure and speed so that they are correctly positioned and give the least damage to the orthopaedic parts that they are involved in drilling through. These two devices have clear potential for economic benefits to the state and employment, and we should congratulate both Micronix Pty Ltd for the extra corporeal imaging system, and the Australian Orthopaedic Innovations group for their start-up and their success in BIF funding, but also recognise that Bio Innovation SA was a product of the previous government.

RADIO ADELAIDE

Mrs PENFOLD (Flinders): Will the Minister for Transport advise the house whether he has now addressed the problems associated with the Radio Adelaide emergency radio system? More than a week ago, the minister indicated that, despite letters and media coverage afforded to the issue:

> I do not have a clue what the answer is, but I will try to get the answer and bring it back for you.

An emergency HF radio call that is not heard by the responsible body, Radio Adelaide, since 1 July this year could easily result in loss of life, and in this respect I quote from a fax that I received on Friday, as follows:

> It would be interesting to see how many people are going to stand by their arguments when (not if) a tragedy occurs that could in part be construed as a failure of the present state of the radio network. My feeling is that they will no doubt 'dance a little sidestep', but it will be of cold comfort to those who lost loved ones and have to listen to a similar analysis in the Coroner's Court.

I am still unable to get an assurance from the minister that the identified problems have been solved.

The SPEAKER: Order! Is the member quoting from a letter?

Mrs PENFOLD: Yes, sir.

The SPEAKER: Carry on.

Mrs PENFOLD: I have now been advised, and I quote again from that fax:

> The new stations are also effectively deaf when they are engaged in weather reports.

The Hon. M.J. WRIGHT (Minister for Transport): Of course this is being followed up expeditiously. I was somewhat surprised when the member asked me the question previously, I will acknowledge that, because to the best of my knowledge, if we are talking about the same thing, I wrote to the member previously about the issue that she raised. That being the case, I was somewhat surprised when it was raised last week. Presumably, that answer was not of the quality that she desired. If I am talking about the same thing, I also think that the member has written to the Premier, who has checked the detail with me and is in the process of replying.

This is obviously a matter that the member feels very strongly about. I may not have, but I think I offered a briefing to the member last week, and I repeat that offer. Straight after question time, I am more than happy to take this up with the appropriate officers because this is obviously a sensitive matter for the local member. I appreciate it as such and we will certainly—

The Hon. D.C. Kotz: And to many others.

The Hon. M.J. WRIGHT: And to many others. We are certainly pursuing it seriously, as it deserves to be treated.

BAROSSA MUSIC FESTIVAL

Mr VENNING (Schubert): My question is directed to the Premier. Given that the government has congratulated organisers of a shorter music festival, which will be known as the Barossa International Festival of Music, will the government now provide funding for this shorter festival? The former Barossa Music Festival was shelved in May after the new government announced that it would no longer fund the festival with taxpayers' dollars. In the past, the festival received up to $160 000 a year in subsidies to stage the nationally and internationally acclaimed event in the heart of the Barossa Valley.

With the state government pledging to provide up to $80 000 to help the former festival meet outstanding liabilities, this could well be injected into the new, shortened event, to be staged over three days in early October. Presently, the event is being supported by sponsorships, donations and volunteers from the Barossa community.

The Hon. M.D. RANN (Premier): I think it is important to clarify the situation, and if the member is having problems hearing me I will speak up. The truth of the matter is this: the new government, which announced that it was suspending payments for the future Barossa Music Festival, did so on the advice of the independent group set up by the previous government, which, by the way, advised me that the Barossa Music Festival was basically in a situation of being financially and artistically untenable. It did so on the basis that it was costing a subsidy of $36.50 per ticket.

The arts community cannot have it both ways, and I will say this as Minister for the Arts: for years they campaigned to have decisions made on funding, not on the whim of ministers, not on the taste of ministers—God forbid that my taste should determine every artistic outcome in this state!

Members interjecting:

The Hon. M.D. RANN: If Kero did, maybe we would all be happy, but the point of the matter is that for decades arts groups around Australia wanted funding to be determined on the basis of peer assessment panels. Of course, they wanted

it at arm's length from ministers and political decisions. So, we simply accepted the advice of the group making the determination not to proceed with funding, because it would have been irresponsible for us to do so, at $36.50 subsidy per ticket. Do you think that is sustainable? I understand that, as the subsidy per ticket rose, the number of people attending diminished. We simply sent a message to the organisers. The honourable member went to the Barossa Music Festival with me. He sat there, and I will not repeat what he said that night when he turned around and commented to me on what we saw. It would be outrageous for me to break that confidence.

I respect the honourable member opposite; he is the only member opposite whom I fear. He turned around and made comments about the musical feast that we had been presented with by Sir Peter Maxwell Davies who, by the way, will be the dominant force in this new, mini Barossa festival. Good on them; it is great to see private enterprise grabbing the baton and running with it. It would have been totally irresponsible of me suddenly to have said, 'No; we won't take any notice of these independent groups making recommendations for funding.' You cannot have it both ways. You get complaints from members of the arts community only when the independent peer assessment groups they wanted set up do not recommend funding. You cannot have it both ways.

Ms Chapman interjecting:

The Hon. M.D. RANN: The Don awards? We heard the honourable member's maiden speech. It was so celebrated that even her own colleagues in the Liberal Party were saying, 'Not a flying start.' Is this supposed to be the next leader? Encourage her! She was told, 'Exposure, exposure, exposure. If you want to get up on the front bench and knock off the leader, go out there and talk about anything. Give Don a big bashing.'

An honourable member interjecting:

The Hon. M.D. RANN: Absolutely; it was like a hand grenade going off in her lap. It was a terrible thing for a maiden speech. She will be remembered for a vicious attack on someone in politics who had died. Imagine if I had delivered a blistering attack on Tom Playford—which I would not have done, because he was a great Premier of this state. We have the guts and moral fibre to admit that and say so. I will just say to the honourable member that I look forward to asking him to go and listen to the Barossa Music Festival's mini edition with Sir Peter Maxwell Davies. He can represent me, and I hope he has the same sensation that he had the last time when he was sitting in front of me.

Members interjecting:

The DEPUTY SPEAKER: Order! It is more like Gilbert and Sullivan, I think.

GRIEVANCE DEBATE

MURRAY-DARLING BASIN

Mr BRINDAL (Unley): I note that today the matter that preoccupied the ministerial benches opposite was whether or not we will host one of the football finals, and that occurred on a day when the Murray-Darling system is absolutely in crisis. While the snow melt is yet to occur, snow cover this year, although extensive, has not been dense. The Menindee Lakes are currently severely depleted and effectively off line to the rest of the catchment. Lake Victoria, South Australia's principal storage reservoir, is currently at less than 60 per cent of capacity, and water is being transferred as we speak to secure entitlement flows for this summer. We can be assured that, for at least the next 12 months and into the future beyond that, entitlement flow is the best that South Australia can expect.

The Goulburn River, Victoria's biggest contributory river, is in its seventh consecutive year of low inflows, and that means drought. This year, the minister in New South Wales has issued general security water licence holders with 10 per cent of their entitlement, 10 per cent of their issued entitlement. In his ministerial statement in this house on 17 July, the minister said:

> Restoring the Murray means more water for the Murray.

That is exactly the case. We heard today the minister say that 30 megalitres of water will be put down the Murray courtesy of this extravagant side deal about which the Premier talks. We have heard that water is going to come courtesy of the commonwealth government when the Snowy River agreement is up and running, but we also heard today that, as we speak, Mowamba weir is to be demolished, allowing 1 000 gigalitres of water that we need desperately for this system, a system this is in drought, to go down the Snowy River and out of the system.

One has to wonder whether it has more to do with the timing of a Victorian election and the re-election of a Bracks Labor Government than it has to do with the needs of Australia. Members opposite raise their eyebrows, but I ask members opposite to consider whether in fact they are Australian or whether they are first and foremost politicians serving a particular party. How any member in any parliament of the commonwealth or any state can get up and justify a weir being broken down and water being diverted from the current Murray-Darling system into the Snowy in years of drought is beyond me.

It may be necessary in the future—and this is a matter of debate—but the point is, why now? Why do it in a year when arguably the Murray-Darling system needs every drop of water that it can get? Why do it in a configuration where that water can and will flow down into the Murray-Darling system if the weir is left in place? Why cannot the Snowy wait another six months, another 12 months, or another two years?

If the Victorian government is in any way genuine about the needs of the Murray-Darling system, then I call on premier Bracks and members of his cabinet to make sure that that weir is not disassembled, that that water does not flow down the Snowy this year but, as a pledge of their good faith to their own state, their own irrigators and the needs of South Australia, that that water is saved and that it comes back down the Murray-Darling system this year.

At the entitlement flows this state is in trouble. Already the salinity in the Lower Lakes is rising, and my colleague the member for Finniss tells me that irrigation will be difficult this year because, at entitlement flows, South Australia's river system is not sustainable. The interconnection between the flood plain and the river is irretrievably lost for the period of low flow and salinity increases. At entitlement flows, we are not surviving; we are going backwards.

The minister has said that this is a matter that needs a bipartisan approach. From this side of the house, it has a bipartisan approach. There is not one minister on the front benches. I do not know how the government can control the

business of this house when it does not even have a minister in here to move the things that are necessary, according to standing orders, for a minister to move. Mr Deputy Speaker, I therefore draw your attention to the state of the house.

A quorum having been formed:

GOLDEN GROVE LAND

Ms RANKINE (Wright): Last week I took some time to speak to the house about a proposal that the Tea Tree Gully Council put to the government to use a portion of the land allocated for the Golden Grove district for a housing development. There is no doubt that this is an absolutely disgraceful situation. The council is not only very willing but also very eager to trade off our young people under the guise of saving a piece of land that it considers to be environmentally sensitive. What we know, however, is that this has absolutely nothing to do with the council wanting to save land for environmental purposes. It is about its attempting to sell off public land, land transferred to its care for public benefit, to make some money for the council.

In recent times, a skate park has been developed on site, and let me tell members that it is like seeing ants over a piece of chocolate when one sees the young people out there swarming over the skate park, as they are so desperate out in that area for something positive to do. That was an encouraging thing to see happen out in the Golden Grove area, but it is a scandalous situation that this council wants to trade off much needed facilities for its own financial benefit. This council is constantly complaining that it cannot afford Golden Grove. Let me say that Golden Grove cannot afford the council.

Just after the last state election the mayor of Tea Tree Gully for the very first time made contact wanting to have an appointment to see me. She came along to discuss the Touche Ross report, that I have referred to on a number of occasions in this house. She came along to tell me that, while the Touche Ross report had been accurate about the costs that council may incur in relation to Golden Grove, it was not accurate in relation to the income they would have. The Touche Ross report stated that by 2004 the Tea Tree Gully council would make in excess of $60 million profit.

In my discussions with the mayor and the CEO of the council I asked them at what point they determined that, in fact, the Touche Ross report was inaccurate, and what they had done about it. This was a financial tool that was developed for the council, but it was not used, updated and worked on. In fact, I understand they were offered the services of the Under Treasurer, but they were services that they did not take up. Instead of taking up that offer they put the report on the shelf and brought it out after I had raised the matter in this house. When challenged about that they blamed former staff. There is no responsibility, it would seem, on the part of current councillors who have been there since the report was determined, nor on the part of senior executive officers who were certainly involved in the council at that time and who remain in very senior positions.

Residents asked some time ago for confirmation of council's claim that Golden Grove costs too much. Let us not forget a few things that have happened along the way. In 1997 the Tea Tree Gully Council changed its rating system which resulted in a massive increase in rates from Golden Grove. They changed from the site value system to capital value and it caused a great deal of concern up in that area. There have also been massive increases in property values. For each year that I have lived in Golden Grove my property values have increased by 10 per cent, and I am sure I am not alone in that. Overall, Golden Grove has higher property values than the rest of the Tea Tree Gully council area. So, when the council was asked to produce this information, the residents received a very simple statement that indicated the level of rates that it received from Golden Grove, which was a little over $8.5 million, together with some other revenue and commission grants. The council claims that it receives an income in the vicinity of a little more than $10.5 million, but its expenditure is in excess of $11.5 million.

When we go through the list, we see that the council has listed the rate income and then it has determined that 29 per cent of the residents live in Golden Grove, so 29 per cent of all expenses are allocated to the residents of Golden Grove. This is a very interesting process when you look at the sorts of things that have been determined against that expenditure—29 per cent fire protection, for example.

Time expired.

SPORTING VENUES

The Hon. I.F. EVANS (Davenport): I want to make some general comments in relation to the Premier's ministerial statement today regarding the AFL, the MCC and the ACCC. I wonder where exactly this will end up in relation to a whole range of sports and whether the government has fully thought through the ramifications for other bodies of what may be clever politics in the short term.

I put on record that I have always had an interest in the SANFL, being a former Sturt player, and I have always watched with interest the development Australia-wide of the AFL game. If the government's actions of referring the AFL preliminary final matter to the ACCC are followed through, it has opened the floodgates for a whole range of other sporting matters to be taken up by the ACCC. Whether the government was intending that to happen and whether it has thought through the consequences is open to question.

The government is well aware that the South Australian Cricket Association has for some time been in dispute with the South Australian National Football League, and indeed the AFL, about whether the South Australian Cricket Association should be able to have the right to host AFL games. There is an argument that Friday night AFL games at Adelaide Oval that may involve non South Australian teams may attract quite a large crowd.

It seems to me, now that the government has placed this matter before the ACCC, that it opens the gates for organisations such as the South Australian Cricket Association to go to the ACCC at the same time and say, 'If you are reviewing the relationship between the AFL, the MCC and preliminary finals, why aren't you reviewing the relationship between the AFL, the SANFL and the matter of AAMI Stadium?'

The Hon. P.F. Conlon interjecting:

The Hon. I.F. EVANS: The minister says it stops them, anyway. As I understand it, the AFL has an arrangement with the SANFL that no games will be played outside AAMI Stadium. SACA, of course, wants games to be played outside AAMI Stadium, and one would assume that SACA would be within its rights to go to the ACCC. I am not sure of that; I am just taking a stab at this because of the issue raised in today's ministerial statement.

Of course, it also works in reverse. I assume there would be an agreement between the South Australian Cricket Association and the Australian Cricket Board that test cricket

and one-day cricket in South Australia will be played only on Adelaide Oval. One could assume that the SANFL would like one-day cricket and perhaps test cricket played at AAMI Stadium. I can remember the days of World Series Cricket, when it was described as 'confetti in a graveyard' and when cricket was played at some of the more prominent football stadiums that were not then prominent cricket stadiums.

The other issue which I raise and which is now on the table for every stadium manager throughout Australia is a possible attempt to seek to undermine agreements between sporting administrators and current stadium owners. If I were the Stadium Australia organisation, which is struggling to find activities to come to it in order to offset the taxpayers' subsidy to that organisation, I think I would be examining very closely what will happen on this issue, because there is now an opportunity for Stadium Australia and other stadiums to say, 'Don't play your one-day cricket at Adelaide Oval, where you will get only 30 000 people. Come to Stadium Australia and we will get you 100 000. We can seat 100 000 people.'

If the South Australian Cricket Association says, 'Hang on a minute. We've got an exclusive agreement with the test board,' one would assume that there would be an argument, given the current government's actions, that an exclusive arrangement for stadium use by sporting associations may well be anti-competitive.

I place those thoughts on record. I may be 100 per cent wrong; I am not sure. I appreciate what the government is trying to do. I support South Australian football strongly, but I raise concerns that, having opened Pandora's box, I am not quite sure where this issue will end up and whether South Australian sport in the long term may not be worse off because of the actions that are being taken. I think that is a question the answer to which remains to be seen.

AFL DRAFT

Mr RAU (Enfield): I rise today to say a few words that occurred to me not only as a result of what has been said today in this chamber (not least of which by the member for Davenport in his last contribution) but also as a result of the television program I saw last night on SBS that dealt with the history of the United Kingdom. Part of the program dealt with, amongst other people, a person by the name of Eric Blair, whom everyone would know more by his pen-name of George Orwell.

It was interesting that Orwell decided that the only way in which he could explain the most offensive aspects of communism and capitalism was to use the farmyard motif that he chose in *Animal Farm*. Thinking about that overnight and today, it occurred to me that if Mr Blair were around and still writing today he might choose to pick, in order to illustrate the stupidity of the Australian situation, perhaps sport and the National Competition Council headed by a Mr Samuel, who writes to people demanding that they justify themselves in all forms.

Incidentally, I understand that the ludicrous extent to which Mr Samuel has now gone is to have written to ministers requesting that they justify cemeteries, believe it or not, and whether they are competitive. The mind boggles at how cemeteries can be competitive. Will we see an interstate exchange for bodies perhaps, where people are marketing bodies across the border? Is this a section 92 issue? Will there be a constitutional crisis about bodies moving across the border? The mind boggles.

By way of a diversion, I might add that the implication for the states as independent bodies in this commonwealth is mind-boggling, when the commonwealth can simply set up some sort of nabob sitting over this organisation and have him determine what state governments will do at the pain of having moneys held back. It really does make a mockery of the federation.

In this crazy world, we have room for a thing called the National Competition Council, where Mr Samuel casts his all-knowing eye across every field of human endeavour and decides, by seemingly arbitrary choices, whether or not states will receive money at his behest. What would Eric Blair be doing now? As the Premier stated, quite properly, we have heard that this great game of Australian Rules Football has now been subsumed and privatised, as it were, by the AFL, and is not able to be played (at least in its finals form) anywhere else but in Melbourne. Of course, if you happen to live in Melbourne, that is probably reasonably good.

I want to cast my mind back, as perhaps Eric Blair might, to the days before the AFL when we had local clubs, when we had Sturt, for example, which has a great history as a South Australia National Football League team, or West Adelaide (which happens to be the team that I prefer), where people had a community involvement, where we did not have all this rubbish with loud carry-on all through the week with advertisements and Eddie McGuire popping his smiling dial onto the TV at every opportunity. We had local clubs with great figures from the past, such as Bob Shearman, Tilbrook and Freddy Bills. But these people were local, community-based people who were linked into the local sporting clubs and were part and parcel of their communities. But what do we have since then?

Through the courtesy of the AFL—this great body—we have filleted the local competition to the point where it is absolutely second-rate—with all due respect to the people who are playing there—it gets no attention whatsoever, local communities are not encouraged to support their local team: rather, they are encouraged to get bedecked in all the latest gear which is sold through franchise dealerships—you get the Port Power undies and tie or the Crows hat and all these other things, from which somebody is obviously making a big quid. At the end of the day, the AFL is about three things: TV rights; advertising and sponsorship, which means money; and the AFL. If you want to summarise all that, it is money. It has nothing to do with anybody who is interested in the sport, and it has everything to do with making a quid.

The interesting thing about this, which has been drawn to our attention today by the Premier, is where the finals are played. But I would like to ask another question, which perhaps Eric Blair might be asking people if he were here today, and that is: is it not interesting that in this arena of competition (where we have Graeme Samuel out there looking into the competitive nature of cemeteries) a young person who wants to play football and decides they want to play for the Power, cannot do it? They cannot do it because they have to go in for a thing called the draft, which is something that is run by, guess who? The AFL! And if that person does not sign up for the draft, they cannot play for the AFL. Part of the condition is that they go wherever they are put and, when they are put there, who gets the money? It is not the player but the local SANFL football club which, I suppose, needs something for all its trouble after what has been done to it over the last decade or so.

Nothing goes back to the community football team, like the Henley old scholars: it is only at the discretion of the

SANFL people. The fact is that individuals should not be treated this way. If we are on about competition, let us be serious about it. If Graeme Samuel can be looking into cemeteries, why can he not be looking into the AFL draft and saying to people, 'If you want to play for Port, the Crows or somebody else, you play for them. And if you do not, you do not have to go through this draft'? It seems to me, Mr Deputy Speaker, that there is a lot of pap—

Time expired.

RURAL COMMUNITIES FOR REFUGEES

Mr McEWEN (Mount Gambier): I will not talk about log hauliers, nor will I talk about Sacred Heart Old Collegians Football Club. What I will talk about, though, is a meeting I attended yesterday afternoon in Mount Gambier which was called Rural Communities for Refugees. I particularly want to talk about a story that was told at that meeting and, if the story is in any way true, I say to this house and to this state that we have a major problem on our hands and we had better do something about it.

I guess it is significant that I rise today—on what, I think, is the first anniversary of the *Tampa* affair—to report on this meeting. I would like to reflect very briefly on how we have used language to rewrite history in the 12 months since the *Tampa* affair. Before the *Tampa* affair, we had 'boat people' and had 'refugees'; then we had 'asylum seekers'; then we had 'queue jumpers'; then it was 'illegal immigrants'; and then we ended up with 'potential terrorists'. So, we just built a case with language. Of course, Australians got to know terms such as 'border security', and 'the Pacific solution'—we must not forget the Pacific solution. Some of us went to our atlases to look up Ashmore Reef; we heard of 6/4; and we saw children being thrown overboard—no, we did not see children being thrown overboard: we saw pictures that purported to be children being thrown overboard. We heard about queues that people should get in in countries where queues do not exist—or, at least, queues to get registration to come to Australia do not exist; queues do exist for other purposes.

So, we found ourselves needing, as a community, to put people behind barbed wire, and we needed these asylum seekers to be processed. It has always been my view that justice delayed is justice denied. I have always been uncomfortable with putting people behind barbed wire and then appearing to use the bureaucracy to do very little about them. But that is a view I hold whether it is asylum seekers behind wire in Woomera or other detention centres, or people who find themselves at odds with the law generally. I think it is a fundamental principle of our society that says you must not delay justice, because that is denying it.

The story I heard yesterday was about one of the Bakhtiari boys while he was in the Woomera Detention Centre. Jeremy Moore told this story to nearly 100 people, and I have no reason not to believe him. He told us that those people who are employed to supervise the refugees, whatever their status is inside the Woomera Detention Centre, in a rather aggressive manner confronted the young 12-year-old Bakhtiari boy in the courtyard where they knocked him to the ground. A gentleman walking past protested and said, 'This minor has relatives within the detention centre, and I would prefer that you go and talk to them if he has done something that has offended you, or is breaching the rules in the place.' For having the audacity to stop the guards (who were properly clothed and wearing batons) and question them about the way they were treating this young male, he promptly received a smack across the face with a truncheon and the bottom of his mouth was split wide open. He was then knocked to the ground—this is the story that was related to this public meeting yesterday in Mount Gambier—and roughed up some more. He was then handcuffed, with his right wrist cuffed to his left heel behind his back, and the other way around as well; and in that position he was then carted off and left in the same position for some hours before being taken to the hospital to seek medical attention.

I hope and trust that this story is not true and through its telling has been grossly exaggerated, because if that story is anywhere near true we should be collectively disgusted. No human being, however they got to this country, whatever the circumstances they find themselves in now as the justice system progresses their claim, deserves that sort of treatment—not in this country. And I want those facts to be put on the record; I want that matter to be properly investigated; and I want some actions taken.

WOMEN'S SPORT

Ms BEDFORD (Florey): I want to explore today a few issues surrounding women's sport, not only in South Australia but nationally. The netball decision that the Premier spoke about earlier during question time was probably the most recent worst-kept secret in Australian sport. It concerned the loss of one of South Australia's national netball teams.

Netball, I understand, is the greatest participation sport that we have, at a time when health issues encourage us to think about activities such as exercise and sport—and netball just happens to be dominated by women. While it is a joint sport, it is predominantly played by women, and women's sport, unfortunately, is the poor relation in sport in Australia.

We have heard today a great deal about AFL football, and some interesting analogies could be placed on the predicament of the two South Australian teams in that league. Now, unfortunately, we have only one South Australian team in the netball competition. The Premier stated that at the elite level, and most recently the Commonwealth Games, Australian teams dominated by South Australian talent are supreme, although the nailbiting ending to the gold medal game that we saw recently had even the least interested observer hanging off the edge of the seat—it was an absolute thriller.

Last Friday, the game that I saw, along with the Premier, was also thrilling. With the backdrop of an axe hanging over their heads the Ravens played a terrific game and well enough to surge ahead by eight points at the long break, although they endured a fairly close finish, eventually emerging the victors by three goals. It was a fitting end to a very tough season for the Ravens and a fitting end also to the career of their captain and centre court specialist Danielle Grant. It was a season that saw one of their players figure in a controversy around pregnant players, which was handled rather questionably, some people would have said, by the supreme netball body in Australia.

So, that was another unsettling factor in their season, and now the fans have been left asking a few questions. People whom I know and respect and who have a direct involvement in netball have posed some questions to me which I certainly cannot answer and which I wish to put on the record. In perhaps the longest whispering campaign that we have ever seen, was Netball SA unwittingly part of a plot by Sydney-based Netball Australia to undermine netball in South

Australia? Whilst in the short term this decision could strengthen the state league and our remaining team, the Thunderbirds, in the long term it will certainly discourage young, elite players in South Australia due to limited vacancies in teams with national exposure.

Given the track record of our teams and media support for them, which is now at an all-time high, why could Netball SA not justify its need for two teams? The costs associated with ETSA Park could be a reason to let one team quietly slip away. Until the recent change in management and the appointment of a new general manager in strategy, which I understand is being introduced, it seems that Netball SA had a system of support that favoured the Thunderbirds and excluded the Ravens. That lack of support from Netball SA included access to ETSA Park, which was too expensive for the Ravens to use for training. The Ravens had little or no financial support from Netball SA, and it would appear that all the best players have ended up with the Thunderbirds.

I am told that the Ravens board members were forced to pay their own expenses to manage the team which was owned by Netball SA. It has been put to me that the old rivalries of Tango versus Contax might have continued to dominate within the administration of Netball SA. Why did SASI squad players go to the Thunderbirds? It is pretty obvious that they have a connection with the coach.

Because of this relegation, we have now been forced to look at how Netball SA is managed. It is certainly time to change the structure of netball in Australia. How is it that a sport in which Australia dominates on the courts can be run in such a fashion? It would have been nice perhaps to see the competition expanded. Why is it that SASI support is strongly linked with one team in South Australia but has little or nothing to do with the other? I understand that the Institute of Sport offered its sports science tracking facilities to the Ravens along with other teams pre-season but that the offer was channelled via SASI and the Ravens did not find out until well into the season.

Was the fact that a Ravens player challenged Netball Australia without support from Netball SA an influencing decision in the days leading up to this announcement? How can a team that has lost 52 of its 70 games—I understand that it is the first time that a team has never won a game in a season—hang on and a team that almost won a grand final be relegated?

PUBLIC FINANCE AND AUDIT (HONESTY AND ACCOUNTABILITY IN GOVERNMENT) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 8 May. Page 44.)

The Hon. I.F. EVANS (Davenport): This is one of three bills which the government brings before the house relating to promises made during the election period about introducing more fiscal responsibility into the process. I indicate that I will speak first and handle this bill and that the member for Bragg will handle the other two bills in the package. The government argues that these legislative amendments give backing to the charter of budget honesty and that they are required to implement a new fiscal responsibility framework. The government proposes to introduce a charter of budget honesty which will require this government—and, indeed, future governments—to set out key commitments to deliver financial and socially responsible government to South Australia. It argues that the primary objective of the charter of budget honesty is to improve the transparency of the government's fiscal management, thereby improving the accountability of government to the public and the parliament. These are the government's claims.

The legislative amendments will require the government to produce a charter and to give direction to the contents of such a charter and the preparation and release of a pre-election report. The government's preferred means for implementing such legislation is to make changes to the Public and Finance Audit Act 1987, as envisaged by the bill. That is why we are here. The government argues that the charter of budget honesty will be required to be produced within three months of a government's being elected. It will be tabled in the parliament and it will commit the government to fiscal responsibility obligations set out in that charter of budget honesty.

The first charter will be required within three months of the bill coming into operation. So, one assumes that will be roughly in December or within that sort of time frame. The key principles on which the charter must be based as set out in the legislation will include: there should be transparency and accountability in stating, implementing and reporting on the government's fiscal objectives based on its financial strategies; the government's fiscal objectives must take into account a range of issues, including tax policy and burdens, risk and service delivery requirements; and consideration must be given to the whole range of government activities—that is, both short-term and long-term objectives must be taken into account in order to ensure equity between present and future generations.

The legislation, as I understand it, will also include the government's financial objectives and the principle on which it will base its decisions with respect to the receipt and expenditure of public money—it almost sounds like a budget document. It will also include a statement on how the government's financial objectives and principles will be translated into measures against which targets can be set and outcomes assessed; that sounds very much like an outcomes statement. In addition, it will include the arrangements that will be in place to provide regular reports to the community about the government's progress and outcomes that have been achieved in relation to the government's financial objectives; the Treasurer will be able to issue instructions under the act in order to ensure compliance with the charter; the Treasurer's instructions will give directions about financial management reporting; and financial procedures are to be complied with by agencies. I dare say that they are not dissimilar to the current volumes of treasurers' instructions that float around the bureaucracy from time to time. The penalty for a breach of an instruction is to increase from $1 000 to $10 000.

As part of the government's 10 point plan, it is also looking at expanding the powers of the Auditor-General. I understand that the Auditor-General has been consulted, if one can believe the second reading explanation, and asked to provide his views on changes required to the legislation to increase his powers and independence in accordance with the objectives for honesty and accountability in government. These reforms will be subject, as I understand, to further

legislative proposals in due course. That is my understanding of the intent of the legislation.

I want to walk through a few comments relating to the practical aspects of this bill. A bill that talks about honesty and accountability in government is a bit like arguing against motherhood. At the end of the day, no-one would not argue that governments should be honest and accountable. It is a bit like arguing against motherhood if one seeks to oppose the bill, so I say from the outset that we do not seek to oppose the bill. However, we wish to put on the record some observations relating to the bill because we think some people might question some aspects about the way in which the bill has been designed and its effectiveness. These are the issues that we would like to bring to the attention of the house and those who take the opportunity to read *Hansard*.

As we understand it, the bill commits to the preparation of a charter of budget honesty within three months of the commencement of the act and also within three months of every general election. The charter in effect is prepared by the Treasurer and must be tabled within six sitting days of completion. It is a bit like the budget document in that it is prepared under the supervision of the Treasurer and ultimately tabled in the house. The bill also requires that the Under Treasurer prepare and release publicly a pre-election budget update report within 14 days of the issue of writs for a general election. Once the election is called and the writs are issued, 14 days later the Under Treasurer would need to prepare and release publicly a pre-election budget update report and that will occur if you had the minimum time for a state election, which is about 28 days. So about midway through the state election campaign a pre-election budget update report prepared by the Under Treasurer will be released.

As background to all this, the 1996 Commonwealth National Commission of Audit report considered the issue of financial responsibility, and that group noted the following:

> Governments have carried out responsible fiscal policies without the need for fiscal responsibility legislation.

So, there has been a general duty and action on behalf of governments always to produce responsible fiscal policies without the need for legislation. Legislation generally is the exception rather than the rule and that was after an international consideration in 1997. The group further noted:

> Adopting legislation is not in itself sufficient to lead to fiscally responsible behaviour, since responsibility cannot be legislated.

That was noted by the Commonwealth National Commission of Audit report, which further states:

> Due to the lack of experience and inherent complexities, there is no clear evidence to date to suggest that legislation leads to more responsible fiscal policy outcomes than would have occurred in the absence of such legislation.

If we look at those areas considered by the National Commission of Audit report in 1996 and at the principles behind this legislation, put simply, it is really saying that governments act in a financially responsible manner, whether or not financial responsibility exists in legislation. In other words, it is up to the government to set its own standard by its own behaviour.

The former Liberal government's general position was that we were happy to be judged on our actual performance as measured by our annual mid-year budget reports, together with various reports of the Auditor-General. I dare say that has been the practice for many decades prior to the last Liberal government. Prior to the last election, the government provided the annual mid-year budget review, prepared using nationally consistent guidelines to ensure consistency between the states and territories. Maybe the Premier in responding to the second reading can clarify how consistent is the legislation with legislation in other states. By adopting this legislation are we losing the consistency that currently applies with things like the normal budget preparation process or mid-year budget review? I do not seek to take the matter into a lengthy debate, but I ask the Premier to provide me with an answer that will help clarify that matter for me.

The interesting point is the timing of the provisions contained in this measure. The parliament has gone through a process in the last year or so of adopting fixed term elections, so that now through legislation we require all elections to be held in late March. The timing of the release of any charter of budget honesty will be virtually at the same time as the state budget. So, the election is in late March; we have to release a charter of budget honesty within three months, and that takes us to about the end of June. That is about when the budget is released, anyway. If anyone can convince media commentators and the parliament that there will be a significant difference in fact—maybe a difference in presentation—between a document prepared by the government that is released in June and the budget prepared by the same department, oversighted by the same cabinet and the same Treasurer and released basically in the same month as the budget, I cannot see how there will be a huge difference, indeed if any difference, between the charter of budget honesty prepared immediately after the election and the first budget released immediately after the election.

If there was a huge difference, the Under Treasurer might be in trouble, as would the Treasurer and the government, because it would be only three months into its term that the charter of budget honesty would have to be released and only three months into its term when its first budget comes about. To say that the charter of budget honesty will somehow deliver something different from what is already available under the process is an argument that needs to be further explored during the debate or during public debate. Given that the purpose of the charter is to state the broad fiscal objectives of the government and to establish a framework for assessing government's performance in achieving those objectives, it is hard to imagine what will not already be included in the budget documents. The budget documents have objectives/targets and outcomes. They have targets for the next year and estimates for the last year. The charter of budget honesty, if you read the language, talks about establishing a framework for assessing the government's performance in achieving those objectives. It sets the objectives first. That is very similar to the current budget document, one could argue.

While the charter of budget honesty sounds good, the reality is that it will to some degree duplicate or run across the same information and facts and will present the same facts as a budget that sets out the fiscal plan and objectives for the government over the next year and the forward estimates of the next three years. What new information will be presented to the parliament through that process is questionable. However, it is in the legislation and we do not intend to oppose the legislation, but we place on record some concern about the effectiveness of that aspect of it.

There is also, of course, a legislative difference between the proposed pre-election budget report and the existing mid-year budget review. The proposed report will be prepared by the Under Treasurer without 'political interference or

direction'. It will be interesting to see how that is different from the existing mid-year budget review, which is around the December period. This year it was released in late January or early February, near the calling of the state election. We know we will have a state election in late March every four years. We know that the mid-year budget review occurs every year and now we will have another document, as I understand it, prepared again by the Under Treasurer. If there was a significant difference between that document and the mid-year budget review I think the Under Treasurer would be severely questioned not only by cabinet and the Treasurer but also probably by the parliament, because the preparation of the documents are so close that there would be only be a matter of weeks for information to be different. Factually they will be no different. They may be presented in a different way, but factually they will be so close to the same thing that some would argue that you may not need both the documents.

The way in which we understand it is that, if the legislation is passed, we are likely to see the Treasurer releasing a mid year budget review sometime in late February and the Under Treasurer releasing his pre election update about two to three weeks after. I have had the pleasure of being a minister and I would suggest that the likelihood of the Under Treasurer releasing a document that is factually significantly different from the document released by the Treasurer two or three weeks earlier is almost nil. I would suggest that the Treasurer's document, that is the mid year budget review, and the Under Treasurer's document will be so close to the same, given that there is only two or three weeks difference, that members will find that factually the documents will at least duplicate a lot of the same information.

The reality is that the Public Finance and Audit (Honesty and Accountability in Government) Amendment Bill sounds good, but what does it deliver? On the surface of it at least one could argue that it delivers two sets of financial information that present in a different way financial information that is already available through either the budget process or the mid year budget review process available to the parliament. The opposition will not be going on for three hours and 46 minutes in relation to this piece of legislation. We will not oppose the legislation. We recognise that it was one of the government's election commitments in that sense, but we do place on record those observations in relation to this particular bill.

The Hon. W.A. MATTHEW (Bright): I, too, rise to support this bill and, in doing so, believe it appropriate to refer to a number of the comments that have been made in the second reading explanation and relate them back to the government's undertaking before the election and, indeed, the government's actions after the election when compared with that undertaking. I note that in the second reading explanation the Premier refers to Labor's 10 Point Plan for honesty and accountability. In his second reading explanation he describes this as representing a major piece of his government's reform process. Obviously during the lead-up to the state election I read with interest the documents released by the Labor Party, and to refresh my memory I have read them yet again. Indeed, two main documents were released.

One of those documents was headed 'Labor's plan for honesty in government: Lifting standards of honesty and accountability in government'. The document states:

> Labor will lift standards of honesty, accountability and transparency in government.

The policy in part states that Labor's honesty in government policy will include a major enhancement of accountability under the Public Finance and Audit Act to do the following things. In particular, I refer to the first two dot points, which state:

- Amend the Public Finance and Audit Act to provide for a new Statement of Purpose for the legislation, including a purpose of ensuring that all public accounts, all publicly funded project expenditure and all government contracts are properly and effectively audited.
- Establish appropriate transitional arrangements between the current arrangements and the new ones.

When I read that document I thought that I must have the wrong document, there must be a more updated one, because, while the bill that we are debating today reflects amendments to the very bill about which this statement is talking, what we see in this bill is a much more watered down version of what was intended.

I then referred to the second document released by the government before the election entitled 'Accountability and Honesty in Government—Labor's 10 Point Plan'. I thought that this must be the document to which the Premier was referring in his second reading explanation; this must be the document that brings about the changed charter of budget honesty, the much more watered down version of what we now see in this bill compared to what seemed to be the tougher approach, the honest approach, that was advocated so sternly by the Premier before the media cameras in the lead-up to the election. However, on referring to that document I find the same sort of wording, because the document tells me in its summary that a Rann government will:

> Amend the Public Finance and Audit Act to increase public accountability.

I thought that obviously this is where it talks about this charter of budget honesty, but, no, again under point 3 'Greatest Scrutiny', Labor's 10 Point Plan reads:

> Amend the Public Finance and Audit Act to provide for a new Statement of Purpose, including a purpose of ensuring that all public accounts, all publicly funded expenditure and all government contracts are properly and effectively audited.

The reality is that this bill before us today does not do that. It does not do what they promised it would do before the last election. Already we see a watering down of honesty and accountability in the bill that is now before the house.

There is very good reason for the government's not wanting to reflect what it promised to do before the last election; that is, it would have to make it honest and accountable. After all, let us look at the way in which this government started. Just look at the statements that have been made by the Premier, the Treasurer and ministers in relation to the state of the so-called finances they claimed that they inherited. Time and time again we have seen ministers rise in this house and say that they cannot undertake this expenditure or they cannot undertake that expenditure or that they have had to cut expenditure on an item due to the dire finances that they inherited. They know those statements are not honest and that they are certainly not being accountable in their actions.

I would hope that every member of the Labor Party knows exactly the sleight of hand that was used to fabricate the Treasury position that has been floated by the Premier, the Treasurer and ministers. Let us look at what they did. I have been in this place now for almost 13 years and in that time this is the most dishonest budget I have seen handed down by

any Treasurer—and I have seen a few Labor and few Liberal treasurers hand out interesting budgets. It is fair to say that a number of treasurers have used interesting accounting tricks to produce particular results, but this one beyond any other has been a dishonest presentation to the South Australian people.

The reason why they do not want to be too tough in the way in which they put forward this legislation today, why they do not want to deliver against the election promise that they put up and why they watered down the accountability provisions of their election statement is that they do not want the statements they have made today placed under scrutiny. I can well understand why they want to be able to create another document three months after the budget process has occurred. I will watch with interest to see how honest and how accountable that statement of the Treasurer's is (as will everyone on this side of the house), because if it is not honest, if it is not accountable, then we will be exposing it as such at the time.

Let us look again at exactly what they did with this budget, what was so deceptive, so manipulative and, in my view, so dishonest about the approach they took. Effectively what we saw was the Treasurer's pre budget statements of $300 million challenged by this side of the house, but there was never enough detail for us to be able to work out initially what exactly he was referring to, but when the budget statement was handed down all was revealed.

What effectively happened was that the Treasurer delayed the transfer of the $304 million that was to be transferred by the Liberal government before the end of the 2001-02 financial year. The area from which that transfer of money was delayed is one that ought be very familiar to Labor members of parliament, because the major area of that transfer was South Australia's Asset Management Corporation, the body that was set up to help clean up Labor's State Bank mess, the State Bank mess that almost devastated this state—the mess that lost some $3 billion to South Australian taxpayers. That body was set up effectively to go through the assets of the bank—the many companies that were bought—while the man who is now Premier sat around the cabinet table. It went through those organisations to restructure them, to sell them, to try to get back some of the money that Labor blew during its period of mismanagement, during its period of dismal administration, of our state's finances.

What an irony that it was $304 million from that body, the body set up to administer some of Labor's disasters, that was delayed in its transfer. By delaying the transfer of those moneys to a date later than 30 June 2002, that action artificially, deliberately and deceitfully created the black hole that is spouted by ministers in this place. By manipulating those moneys in that way, the Treasurer was able artificially to create a $62 million black hole deficit. It is interesting to watch what he has done with the rest. He has manipulated the moneys to the extent that, by the end of the 2002-03 financial year, he expects there to be a surplus of $92 million.

Something else I will say to Labor members in this place is that I have seen the way Labor treasurers manipulate money, and I have seen the way the right versus the left finishes up in open warfare if one group does not get what it wants. It is quite clear from this budget that the right of the Labor Party is a lot happier than the left. There is no doubting that, and the left will be agitating for its bite of the cake, too. There are already quite a few rumblings from backbenchers. They are not too happy about their lot in the budget. They want to get more of the cake. That so-called surplus of $92 million is sitting there, and they will start chomping away at it. Before they know it, that will be gone, too. When that is gone, they will start getting into the usual ways of undermining and deriding, bringing down the state's finances, just as we have seen Labor Party governments of the past do so often time and again.

I would argue that the artificial creation of the black hole in this budget is not a publicly accountable process. It is not a proper process. It is not an honest process. Yet after that exercise of deceit we now have presented before this parliament a very watered down version of Labor's pre-election promise. I put this question to the Premier for him to reply, either during his second reading response or perhaps later in the committee stage of the bill: why has Labor not delivered with the strength and vigour that its policy promises? Why has Labor delivered a bill that includes a watered down opportunity to present, effectively, a charter of budget honesty, when in fact the policy talked about something far stronger than a charter of budget honesty, something that was more measurable?

The Labor Party's policy refers to a statement of purpose, a purpose of ensuring that all public accounts, all publicly funded expenditure and all government contracts are properly and effectively audited. The reality is that what we will see from this charter is nothing different from what we saw from the budget—a document of deceit, a document of manipulation and a document of underhandedness, combined with a budget document that was very political in its nature. That is what we will see through this process—merely political manipulation of the facts and an attempt to deceive the South Australian public.

I, for one, do not believe that South Australians are that easily deceived, and they will see eventually that this Premier of smoke and mirrors is just that. Premier, this is not about whether or not a football match is played in this state, whether or not a netball match is played here or somewhere else, or whether or not soccer matches are played here: it is all about a process of government. While those things are all very important, the Premier and I know full well that it is not the main role that the members of the public expect of a premier. They expect the government to back up the people who work in those areas and they expect the government to be accountable in its processes. We do not get that through this bill. It is a sham.

Mr HAMILTON-SMITH (Waite): I rise to follow my colleagues in supporting the bill. It is curious in some respects and it contains a number of motherhood statements and some meat that might produce some improvements in the way government does business. I agree with my colleague the member for Davenport in noting the 1996 comments of the commonwealth National Commission of Audit, which made the obvious point that governments have carried out responsible fiscal policies without this sort of legislation in the past, and to legislate for this so-called budget honesty is the exception rather than the rule and will not in itself guarantee that we do things any better than we have in the past. A government is either responsible, competent and honest or it is not, and there is nothing in this bill that will stop a mischievous government from getting it wrong. However, it is a step in the right direction, and for that reason I join my colleagues in supporting it.

I believe that, in committee, we will find that new sections 4C and 4D are really superb motherhood statements. They sound very impressive but they really mean little. New

section 4E, which provides for the Treasurer to be able to amend the charter and replace the charter as he or she thinks fit, limits and constrains the effectiveness of the bill to a degree. I am interested, too, in new section 41B(5)(c), which mentions the old 'out' that the Under Treasurer does not have to include anything in his charter which in his opinion should not be included because it is confidential commercial information.

Mr Koutsantonis: What is wrong with that? That was your mantra in the last parliament.

Mr HAMILTON-SMITH: The member for West Torrens asks what is wrong with that. Nothing is wrong with that, except that the government was vitriolic in its criticism of the former government over commercial in confidence matters and the former government's claims that there was a need to protect the public interest on the basis of commercial confidentiality. Yet, we have enshrined in this bill the same principle, behind which I hope the government does not seek to hide when this charter of budget honesty is finally promulgated.

The only real meat in the bill is new section 41B, which requires the Under Treasurer to prepare and publicly release a pre-election budget update report within 14 days of the issue of writs for a general election. That is the only real meat in this initiative and it is what might come back and bite the government. I hope that the Treasurer is on very good terms with the Under Treasurer running into the next election, which as we all know is predicated for March, because, as my colleagues the member for Davenport and the member for Bright have pointed out, it is futile having the Under Treasurer coming out with a charter of budget honesty a mere two to three weeks after the Treasurer has put in a mid-year budget review. The Treasurer might just find that, if he has not got it right with the Under Treasurer, the Under Treasurer will seize the opportunity in this bill to lambaste his mid-year budget report, and we will see how that unfolds.

That is the crux of the bill and, for that reason, I intend to join my colleagues in supporting it. I commend the government for putting it forward. As I said, it is full of motherhood statements and it is probably an unnecessary bill. However, it is a step in the right direction and, if it improves good governance slightly, it is all for the betterment of the people of South Australia and the functioning of this parliament. I commend the bill to the house.

Mr BRINDAL (Unley): Like my colleagues before me—

Mr Koutsantonis interjecting:

Mr BRINDAL: The member for West Torrens asks what my policy is on this measure. My policy is concurrent with that of the Liberal Party, and I will briefly explain to the member for West Torrens, who appears to have nothing better to do than go through the best web site of any member on either side of the house.

An honourable member interjecting:

Mr BRINDAL: Excuse me, but I do not want to see the minister's, thank you very much. The fact is that this bill currently before the house purports to legislate for honesty and accountability in government.

Mr Koutsantonis: Why are you voting for it?

Mr BRINDAL: The member asks why I am voting for it. Let me be quite clear: I am not voting to oppose it. I am not in unqualified support of this bill; I am not voting to oppose the bill. There is a subtle distinction. Perhaps, being of the faith he is, the member for Playford could explain the difference between not fully supporting something and actually voting against it. There is a shade. We will not oppose the legislation but, as my colleague the member for Davenport has said, we will question the legislation before the house in detail and leave open the right of another place to amend the legislation to the form that it should take. In considering this bill, the first question that the house should debate is that it is necessary to bring in honesty and accountability in government legislation. I do not think anyone in this place should sit here crowing about the fact that we think—

Mr Koutsantonis interjecting:

The ACTING SPEAKER (Mr Caica): Order! The member for West Torrens will not upset the member for Unley as he is doing.

Mr BRINDAL: The member for West Torrens seems determined to have violence done to him. It is sad that we should find it necessary to introduce a bill that purports to bring honesty and accountability to government. After 150 years of parliamentary democracy, why is this measure necessary? Why has the Premier seen fit to say that we need this measure? I would put to the Premier that even if we get this measure it will be impossible to legislate for or compel honesty. Honesty is determined by the members.

The Hon. M.D. Rann: We have a Crimes Consolidation Act.

Mr BRINDAL: I know the Premier has suddenly learnt some legal words; he proved that very well in question time today. In due course we will submit the bar test to him to see whether he understands what they mean, but he did know them and he parroted them very well. I am sure his tutor has given him nine out of 10 for the lesson. The fact is that we are here to discuss a bill which purports to ensure honesty and accountability in government. But, as my colleagues the members for Waite and Davenport have said, and I believe it is a point that a number of other speakers may well make, the fact is that this is a matter that cannot be compelled. Every member opposite complained throughout our term of government that the budget papers were reformatted and rewritten, and they claimed that most of the time they could not be read.

This year many of my colleagues and I had many problems, because this government exercised its right to change the ministries and to change the allocation of moneys between last year and this year. That alone, which was nothing more than the right of the current government in power, made it very difficult for anybody to follow logically and concisely what the expenditure of moneys had been from last year to this year. We had a clear carryover plan three years in advance for expenditures in all portfolio areas. Now that this government has come to power and changed the mixture of portfolio areas, it is not always easy to find whether processes concerning those moneys which we had committed and which Treasurer Foley as the then shadow treasurer said he would commit to follow in government have been followed.

I am at least glad in the respect that, having assumed the Treasury benches, the Treasurer discovered a black hole of mammoth proportions which was unknown to anyone but the Treasurer until he discovered it. The black hole was so big that he managed not only to fill it in with this budget but also to fill it in with a $72 million surplus. There are some of us cynical enough to believe that he did not receive payments which we had budgeted for the last year but slipped them into this financial year so they could be declared a surplus in this year and create a deficit in the last year. If that is honesty and accountability, I do not understand honesty and accountabili-

ty. If that slipping or moving around of the figures is a manipulation of the Treasurer's account-keeping methods, why, having done that, do they now come in here and introduce a bill for honesty and accountability in government? Perhaps it is more the case that this bill signals the Premier's fear that in four years' time he will again be in opposition and he does not want a government Treasurer to come in here and pull the same sliding black hole trick. One day there is a good, balanced budget, the next day there is a black hole, and the day after that we have a budget surplus!

The Hon. M.D. Rann interjecting:

Mr BRINDAL: The Premier asks me to be kind. I assure him that, compared with him in the past eight years, I am being a regular pussy cat. I watched his performance, as did the Whip and every member except one present in the chamber. We watched him show us how to create—I think his words were 'absolute mayhem'.

The Hon. M.D. Rann: I've stopped eating so much chocolate.

Mr BRINDAL: Yes, I know, and I know he has calmed down and is now in his statesmanlike mode. He is now the statesman, the placater, the facilitator, the bipartisan man.

The Hon. M.D. Rann: The father of my people.

Mr BRINDAL: The father of his people. We will get all those things on the record. He is the clever person with appearance that he has always been. He is a good strategist—no-one on this side would deny that—and this bill is good public strategy. Whether it is good public policy and whether it is a good legislative measure or another piece of bumph so we can appear to people that we are doing something when in fact we are doing very little, I am not so convinced. So, that is why the member for Playford nods off.

Mr Snelling: It's because of you, because you're sending me to sleep.

The ACTING SPEAKER (Mr Koutsantonis): Order! The member for Unley will not respond to interjections.

Mr BRINDAL: Of course I will not, sir. I suggest he go back to reading the *Lives of the Saints*; he does not find that so tiring. That is why I am less than kind about this legislation and why, while not opposing it, my colleagues and I accept the government's right to bring in what measures it wishes. We do not oppose this legislation: we simply question the need for it and its effectiveness. We simply reserve the right to amend it drastically in another place if it should need amending.

Mr MEIER (Goyder): I also rise to support this bill but, like all other speakers on this side, I do not think it goes far enough. I think it is a political move rather than a move that will bring in real honesty and accountability. It is quite clear that the correct words spoken at the correct time during an election campaign can influence votes. If a member goes out and says, 'If you elect us to government we will bring honesty and accountability into government,' people say, 'Very good; we'll give you our vote.' Unfortunately, when I look at this bill, I cannot see how it will bring in any more accountability and honesty than we already have. In essence, all it does is seek to bring in a system for assessment every three months rather than every six months, as occurs currently. I notice that there is no provision for financing in this bill for the extra work that has to be done every three months rather than six months. The money has to come from somewhere; you cannot expect the officers to work double time or someone to say, 'Blow it; instead of working eight hours a day you will have to work 12 hours a day, because you have to get this extra report in every three months.' There is no mention of that at all. I will be interested to hear how it will be paid for. But if we look closely at this bill, we see that Treasury will prepare it, and the Treasurer certainly will be involved in that as well.

What happens at present? Well, to the best of my knowledge—and the shadow Treasurer backs this up—99.9 per cent of the figures produced currently are produced by Treasury officers, not the government, be it Liberal, Labor or any other government. So that will continue as has been the case. Then how will we get the real honesty and accountability? What did we see in this last budget? It was very clear in that budget, and I am quoting the Treasurer from 5 June, as follows:

> The government has again used assets of government to prop up its budget bottom line, and it has used approximately $194 million from the bad bank to prop up the current budget, together with in excess of $100 million from capital taken from SAFA. This government has used assets to meet its budget bottom line commitments that should have been used to retire state debt, and that is concerning. It would have been my preference for that money to be used to pay off state debt.

However, on 1 June last year, a year earlier, when the now Treasurer was in opposition, he said the following in relation to what he did in June this year, and I quote Mr Foley's words from an interview on 5DN on 1 June 2001, as follows:

> What the government has done this year is taking money from the assets of the old State Bank, and it has taken capital from the Government Financing Authority, moved it into the budget to prop up the budget bottom line, really as a trick, a smokescreen. As the *Financial Review* said today, 'We are still substantially in a cash deficit.'

So, a year earlier, the now Treasurer was calling it a smokescreen, a trick, but he goes and does it himself! We brought in this bill hopefully for accountability and honesty. Will it address this sort of thing? No, in no way at all will it do so. Therefore, whilst I support it, and I think we will get figures every three months instead of every six months, it will not do a thing. We already have the same provisions. It will be, of course, to some extent a waste of taxpayers' money: simply getting these Treasury officials to do basically what the government wants them to do.

But there is more. We see that the Treasurer may amend this statement or, as it is called here, this 'charter'. Not only may he amend the charter, but also he can replace the charter with a new charter. In other words, if the statement is not what he wants, if it changes, he comes into the house, and by way of ministerial statement, he can say, 'I am amending the statement from last week'; 'I am amending the statement from two weeks ago'; or 'I am replacing it with a completely new charter.' Is that honesty and accountability? I guess the honesty part would come into play if he said, 'Things have changed' and, if it was a genuine change, I would have to acknowledge it. However, I have a terrible suspicion that it is the way out for members of this government, because we have seen the way they act.

Then we see that the maximum penalty in section 41 has been increased from $1 000 to $10 000. What is this $10 000 fine all about? Whom does it apply to? Well, it applies to people who have been asked to carry out the Treasurer's instructions. What sort of instructions? Well, I quote from section 41 of the act, as follows:

> 41.(1) The Treasurer may issue instructions—
>
> (a) requiring accounts to be maintained and records to be made and kept by the Treasurer and public authorities and setting out the form and content of those accounts and records;

(b) setting out the form and contents of financial statements that must be prepared by the Treasurer and public authorities pursuant to this Act;
(c) requiring that procedures, set out in the instructions, be followed in the course of financial administration by the Treasurer and public authorities;
(d) requiring that procedures, set out in the instructions, be followed in the operation of special deposit accounts.

That is what the Treasurer can instruct. What happens if the people whom he instructs do not carry out their job properly?

The ACTING SPEAKER: Order! I am sorry for interrupting the member for Goyder. Could the Clerk please adjust the clock to reflect the member's remaining time. I think the honourable member has been speaking for about five minutes.

The Hon. I.F. Evans: Nowhere near it. I think he just started!

The ACTING SPEAKER: If there is a dispute in the house, I am quite happy to—

Mr MEIER: No, Mr Acting Speaker, I will not be using my full time, anyway. What happens if this person or these persons do not carry out the Treasurer's instructions? At present they are liable to a $1 000 fine. This government is saying, Right, it will be $10 000.' Oh boy, I can see confidence in the Department of Treasury! The Treasurer will say, 'Right, it's not accurate; $10 000 boy (man or woman, as the case maybe).' I am sure it will instil real confidence in them.

In fact, what will happen if we should have a situation where the government comes back and says, 'Hang on, I want the SAFA figures brought into this,' or, 'I want the South Australian Asset Management Corporation figures brought into this budget.'? What if the Treasury official says, 'No, Treasurer, that would not be the correct thing when putting the budget statement together.'? Who will issue the $10 000 fine? Will the Treasurer say, 'If you do not put that in, you are liable to a $10 000 fine.'? What do you think the Treasury official will do? He will obviously say, 'There's nothing much I can do, is there? I will have to put it in, and it will be an unrealistic budget figure that has come out.' So, is there real honesty and accountability in this? Has there been any increase in honesty and accountability? I do not know. I think we have quite sufficient at present. Whether this will add to it is very questionable.

The other thing to which I want to allude, particularly while the Treasurer is present in the chamber, is the supposed black hole that the Treasurer identified back in March. The Treasurer indicated then that he had discovered this black hole of something like $300 million over three years. I have asked previously, if it was correct, what is it in real budget terms? Working on a budget over that period of some $8 billion per year over four years, my calculations indicated that that was .9 of 1 per cent of the budget; in other words, less than 1 per cent.

If anyone in a family or a company comes in within 1 per cent of what they estimated for their budget, I would say that they would receive huge accolades from either their family, the board or their fellow managers. That is excellent, and that is exactly what the Liberal government has done: it came in within 1 per cent. But that is not the topic of this debate. The thing is that the former Treasurer, now the shadow Treasurer, has identified very clearly—and it is stated in *Hansard* in another place so I will not repeat it—that this $300 million black hole was a sleight of hand. It was the transfer or delay of funds from one year into the next year. Suddenly this year we have something like a $90 billion surplus proposed. So it is not real.

Again, will this new bill help to address that? The way I read the bill it will not. I do not think it will address that at all. There will still be the opportunity for the Treasurer to come in and make untrue statements. I guess they are not dishonest from the point of view that it can be argued that funds have been transferred forward or brought back—creative accounting—so that it would be very hard to prove. Clearly, it is not accurate accounting and it is not the accounting that the average person in the street would want.

When I first heard the Premier say that he would bring honesty and accountability into this parliament, I for one applauded him. However, when I see the first of these honesty and accountability bills, I feel as though it is simply to fulfil an election promise and perhaps to placate those people who said, 'Good on you. We'll vote for someone who brings honesty and accountability into this parliament.' But it is not going in the direction in which I would like to see it go. I would like to see honesty and accountability come into the ministry when questions are answered in parliament. So often I have become frustrated that questions are either not answered or are so distorted that an honest answer has not been given. Of course, it may be that the Premier has a fourth bill up his sleeve that will come in next year and, if that is the case, I am happy to wait for that. As I have said, this is a step forward, but I do not believe very much will be achieved. I wonder how much extra it will cost, and I also have reservations in that respect. With those words, I am sure that this bill will go through without too much delay.

The ACTING SPEAKER: The member for MacKillop.

The Hon. M.D. Rann: Be kinder than this mob!

Mr WILLIAMS (MacKillop): Be kind to you! Premier, I would love to be kind to you in speaking to the matter before the house. Unfortunately, however, I find it very difficult to be kind, because we are addressing what I can only refer to as a bit of nonsense. Premier, after spending—

The ACTING SPEAKER: Order! The member will address his remarks through the chair.

Mr WILLIAMS: Thank you, Mr Acting Speaker. May I say to the Premier that, after a number of years in opposition, he has become very adept at confusing perception and reality, and that is what this and the rest of the legislation in this package is all about: building a perception that we have a government that is doing something that has never been done before.

The member for Davenport illustrated very adequately that there is nothing new in this legislation and that it will not help people in terms of having a greater understanding of the fiscal state of the government of South Australia. Indeed, all this legislation and the associated package of bills is designed to do is to enforce the rhetoric that the Premier and his ministers have been espousing for a long time now but particularly during the election and since. If I have some concern about this legislation it is that it will cost quite a deal of money to administer and to carry out the functions that this—

The Hon. M.D. Rann: No, it won't.

Mr WILLIAMS: In saying that, the Premier is acknowledging that there is really nothing new in the bill. I am delighted that he has acknowledged that by saying that the legislation will not cost any extra to administer. If I have any fear, it is that it will cost taxpayers considerable sums of money for absolutely no benefit whatsoever. I do not intend to criticise the current government, because my remarks could be directed to any of the budgets that have been

brought before this parliament since I have been a member, but the way the budget document is presented to the parliament is an abomination. If the Premier and his Treasurer wanted to have real budget honesty and give the people of South Australia, let alone members of parliament, a much better understanding of what was going on with respect to the books of the government, they would completely revamp the way the budget is presented and make it an understandable document in which not only parliamentarians but also the people of South Australia could track what was happening within the revenues and expenditures of the state year on year.

I think that the biggest problem with the budget is that it is a very difficult document, not necessarily to understand but to track and to see what is happening from one year to the next with regard to any particular outlay. If the Premier is serious about honesty and accountability, he would tackle that aspect of the budget. By bringing to the house a series of bills such as this, the Premier is delivering nothing new to the state and nothing new to the parliament, and I think it is a nonsense. Although I am quite happy to support this measure, because I do not think it contains anything really bad, I do not believe that it will deliver anything new or worth while. I am so convinced of that that I think it is probably a waste of the house's time to continue my remarks beyond that. I just want to emphasise that I believe that this is all about creating a perception, and I think it is a pity that the house has been put to this trouble to fulfil the Premier's media agenda.

Naming a bill 'honesty and accountability in government' implies that prior to this there was a lack of accountability and a lack of honesty, and that, as we all know, is absolute nonsense. In fact, in recent times, the greatest dishonesty in this place with regard to the budget process is, as the member for Goyder has just said, the fictitious black hole which the Treasurer has been talking about ad nauseam since his party came to power earlier this year. If the Premier were serious about making the budget more accessible to the average citizen of South Australia, he would revamp the way the document is presented. I do not expect that to happen, because treasurers have a wont to hide behind the complexities and confusion inherent in budget documents. So, I do not expect to see any great moves forward in that regard, but I do think that that would be of much greater benefit to the people of South Australia than this piece of nonsense before the house today.

The Hon. M.D. RANN (Premier): First, with everyone's indulgence, I would like to clarify my ministerial statement in question time regarding the ACCC's investigation into the possible breaches of the Trade Practices Act by the AFL, the MCC and the MCG Trust. Our understanding is that the MCG contract requires that at least one preliminary final be played at the MCG each year, regardless of which teams are involved, which is what I said publicly, but apparently there was a slip of the tongue today in terms of my statement.

If Brisbane finished top at the end of the minor round and won its way to the preliminary final round, that preliminary final would be played in Brisbane and, under the current arrangements, the other preliminary final, which could involve Port Adelaide and/or Adelaide, would be held at the MCG. To clarify further, the response from the MCC stated:

> The MCG will remain as the home of the finals for this competition, in line with the views of the partners to the agreement.

I apologise if I have in any way misled members opposite.

Members interjecting:

The Hon. M.D. RANN: And to the house—indeed, to anybody who takes umbrage at the campaign to get a preliminary final in Adelaide. Interestingly enough, today we have heard from the shadow minister an eloquent and positive speech showing that he is prepared to be positive in his role in opposition. But, from some others, still that rancorous feeling that they have not yet adjusted to opposition.

A point raised was that there was no point in this legislation, that it was simply a sham and why would we need to do this because what was the point of it? Someone asked, 'Has it been done anywhere else?'—such are their research strengths. The following charters or legislation have been adopted by other Australian jurisdictions, and I suggest that maybe the member for MacKillop and maybe other members might want to phone Mr Howard or other Liberal leaders around the country, because let us have a look at the dates of some of the other legislation adopted by other Australian jurisdictions. Apparently this has somehow come out of my head and there is no purpose in doing it in South Australia.

Well, in the commonwealth there is a Charter of Budget Honesty Act 1995; in Victoria, Financial Management, Financial Responsibility Act 2000; New South Wales, General Government Debt Elimination Act 1995; Western Australia, Government Financial Responsibility Act 2000, passed by the Liberal government of former premier Court; Queensland, Financial Administration and Audit Act 1997; Northern Territory, the Fiscal Integrity and Transparency Act 2001. We have looked at and drawn from each of these, as well as legislation from the Canadian provinces of Alberta and Saskatchewan; and I recommend that members opposite might want to visit Alberta and Saskatchewan perhaps next year to see how the legislation works.

The Queensland charter is the model that has been used for the framework recommended in South Australia. So, rather than something that we have pulled out of thin air, it is in the commonwealth, Victoria, New South Wales, Western Australia, Queensland and the Northern Territory; and ours has been based on the Queensland charter. Queensland prepares a separate charter, while the majority of the other jurisdictions have legislation that prescribes the fiscal framework of the jurisdiction.

The previous government was of the view that it is possible to achieve the fiscal objectives chosen without the need for legislation. So, the former South Australian government, of which members opposite were members, was out of step with the commonwealth, Victoria, New South Wales, Western Australia, Queensland and the Northern Territory, which all believe that such a step is necessary.

Western Australia was one of the first states to introduce legislation that required a pre-election report. But when the first pre-election report was published, it showed the state's financial position in a worse position than the Court government had admitted to. It was one cause of the downfall of the Court government which introduced the legislation. So, try telling Richard Court that this legislation is pointless and has no effect. An article in the *Australian* of Tuesday 16 January 2001 states:

> Premier Richard Court's reputation for sound economic management took a battering yesterday when the West Australian Treasury revealed a $250 million deterioration in the state's budgetary outlook over the next four years. The forecasts were issued hours before Mr Court launched a commitment to responsible financial management at the start of the second week of campaigning for the February 10 elections. Ignoring the revelations, Mr Court promised to deliver four operating surplus budgets if re-elected.

'Over eight years we have been able to demonstrate that year in, year out, we deliver,' Mr Court said. 'What those forward estimates show is that whoever is in government is going to have to keep a very tight rein on expenditure.'

But the timing and content of the updated economic forecasts which foreshadow spending increases across government is appalling for Mr Court, who is Treasurer as well as Premier.

So, here we have a situation where the Western Australian Liberal government introduced a similar charter of budget financial responsibility and got caught out in the election campaign when the Under Treasurer was apparently to release the figures. So, I am not quite sure why it is pointless. It brought down the Court government. How can members opposite believe that it does not apply anywhere else in the world when it applies in virtually every other jurisdiction in Australia—although I could not find any mention of Tasmania. So if it is all the other states, and, indeed, if the Liberal Party in other states believed that such legislation is a good thing, why do members opposite fear it, even though in the end they support it?

This suite of legislation is about giving the Auditor-General more powers. Why would they fear that? It gives ombudsmen greater powers and provides for a charter of financial responsibility. Can members opposite say that there is no need for this legislation, that it was all hunky dory in the past? We remember that a QC appointed by the Olsen government found the former premier to have acted dishonestly. We remember the conflict of interest that affected so many ministers and, on several occasions, ministers had to resign after they were criticised by the Auditor-General for conflicts of interest.

Members interjecting:

The Hon. M.D. RANN: You cannot remember who they were? I think there was one at least.

The ACTING SPEAKER: Short memories.

The Hon. M.D. RANN: Very short memories. So we saw conflict of interest after conflict of interest. We saw privileges committees. We saw Auditor-General's reports. We saw the whole issue of accountability, transparency and honesty raised time and time again. We do not fear an Ombudsman or an Auditor-General with greater powers, we do not fear a tougher code of conduct and we do not fear a charter of financial responsibility.

Bill read a second time.

In committee.

Clause 1.

The Hon. I.F. EVANS: I have a question on behalf of the member for Bright, who raised this matter during his second reading speech. The Labor Party policy mentions amending the Public Finance and Audit Act to provide for a new statement of purpose for the legislation, including a purpose of ensuring that all public accounts, all publicly funded project expenditure and all government contracts are properly and effectively audited. Does the Premier have any examples of where they are not currently properly and effectively audited?

The Hon. M.D. RANN: That will be dealt with when we introduce the Auditor-General's bill. As I say, this is part of a suite of legislation. We can deal with that question there.

Clause passed.

Clauses 2 and 3 passed.

Clause 4.

New section 4A.

The Hon. I.F. EVANS: This clause is made up of proposed sections 4A, 4B, 4C, 4D and 4E, and as I get only three questions on all of these I will just run together a bit of a speech and put some questions—to try and speed up the process for the Premier, who I sense might have other commitments given his busy schedule. New section 4A(3) provides:

A new Charter must be prepared within three months after each general election.

Is it three months from the general election being called, is it three months from the day the election is called, or is it three months from when the election is declared?

The Hon. M.D. RANN: Declared.

The Hon. I.F. EVANS: In unusual circumstances, such as those surrounding the 2002 election, one would assume that it is three months from the date on which the parliament establishes whomever is the government.

The Hon. M.D. RANN: No, not under the terms of the act. It would actually apply when the general election result was declared.

The Hon. I.F. EVANS: So, if the declaration of the general election result is unclear as to who forms government, the three month period still starts from the date on which it is declared, and the fact that the parliament might take three or four weeks to establish who forms the government is a separate matter?

The Hon. M.D. RANN: That is correct.

New section agreed to.

New section 4B.

The Hon. I.F. EVANS: Under paragraph (a), the purpose of the charter is 'to state the broad fiscal objectives of the government'. How will that differ from the budget papers?

The Hon. M.D. RANN: It sets the performance framework so that the people—and, indeed, the parliament—can see whether the budget itself actually complies with those performance criteria. It is very similar to how it applies in the Queensland legislation.

The Hon. I.F. EVANS: We already have outcome statements in the budget papers which set measurable targets for a whole range of programs. How is this different from what is in the budget papers and how, then, does the Auditor-General report? I note that the purpose of the charter is to state the broad fiscal objectives of the government and to establish a framework for conducting assessments. The Auditor-General provides an assessment of the audited figures and the budget itself sets out a whole range of measurable performance criteria. I cannot quite get my head around what different information will be provided.

The Hon. M.D. RANN: That is a very valid point. In Queensland, the budget papers are required to comply with a certain range of objectives. Obviously, people cannot understand what the budget says—that has been the case for some years—so, whereas budgets look at what programs do and their outcomes, this puts in place fiscal and financial targets such as where we are going with accruals, the sorts of things for which ratings agencies would ask, and, of course that is not necessarily so in budgets, as we have seen over the years.

New section agreed to.

New section 4C.

The Hon. I.F. EVANS: As I understand it, new section 4C sets out principles to which a treasurer must have regard. The treasurer does not have to take any action in relation to any of them; he has only to take regard of them. So, in theory, it is possible that the treasurer could have

regard to paragraphs (a), (b), (c) and (d) of new section 4C but actually not take any action other than to consider them.

The Hon. M.D. RANN: He must consider those issues when he is formulating the charter, and the charter is then laid before the house. In terms of the parameters of the charter (the sorts of things we talked about before, the sort of information that would be required by ratings agencies, where we are going in terms of deficits and accruals, and so on), it would be up to members opposite or any member to question whether those issues have been adequately dealt with. It would be extremely embarrassing for any government to be found not to have taken those things into account when formulating the charter.

The Hon. I.F. EVANS: I want to tease that out a little further. The point I am trying to establish is whether it is possible for a treasurer to have regard to these four principles but then to ignore them in the charter. For instance, under paragraph (d) the Treasurer, in preparing the charter, must have regard to the following principle:

> . . . both short-term and long-term objectives must be taken into account in order to ensure equity between present and future generations.

If this Treasurer was presented with certain information which he did not like, he therefore has had regard to it; he has considered it; but he might then decide not to put it in. In theory, is that possible?

The Hon. M.D. RANN: No, because you would give him a hard time if that were the case. The terminology 'must have regard to' is used in many pieces of legislation. It is a requirement that, in formulating the charter, he must have a mind to regarding these matters and, therefore, to include or cover those matters in the charter. We will ensure that happens—and you will ensure that it happens.

The Hon. I.F. EVANS: Is the government interpreting the term 'must have regard to' as 'must include'?

The Hon. M.D. RANN: Yes.

New section agreed to.

New sections 4D and 4E agreed to; clause passed.

Clause 5 passed.

Clause 6.

The Hon. I.F. EVANS: The purpose of the pre-election budget update report is to provide an updated statement on the current and prospective fiscal position of the government. Will this include cost pressures that have been notified to the government? There has been a lot of debate in this chamber about what cost pressures were notified to whom and when. The purpose of the pre-election budget update report is to provide an updated statement on the current and prospective fiscal position. I read that to mean that it is limited to government decisions and announcements, but the government may well be notified of cost pressures which are not revealed. I seek clarification on how cost pressures will be handled.

The Hon. M.D. RANN: We would include cost pressures that were known to the government. The current debate in terms of the federal government's charter of financial responsibility did not include, at different stages, Australia's actions in East Timor or Australia's role in the war in Afghanistan, because those things could not be predicted. However, cost pressures that are known and can therefore be reasonably anticipated will be included in the charter.

The Hon. I.F. EVANS: During the passage of this legislation between the houses, the Premier may want to consider an amendment that a treasurer cannot issue an instruction to an under treasurer that he does not want to be advised of any cost pressures for the last three months or six months before an election, so that it shields the government from having any knowledge of cost pressures, and the government would still legally and truthfully meet its obligations under this act. I do not need an answer now, but I ask the Premier to consider that in between houses.

It would technically be possible, as I understand it, for the Treasurer to issue an instruction to the Under Treasurer to say, 'I have to report on the cost pressures known to government; therefore don't advise me for the last three months.' We can do that now because we know the election is the last Saturday in March in 2006. The Treasurer could use that Treasury instruction to manipulate that provision, so I ask the Premier to think about that between houses and consider whether it needs to be tightened up in that respect. I refer to new section 41B(4), which provides:

> The information in the report is to take into account, in so far as is reasonable in the circumstances. . .

I put to the Premier that the words 'in so far as is reasonable in the circumstances' should come in the sentence after the words 'all government decisions and announcements'. In other words, the information in the report should take into account all government decisions and announcements, and then the words 'in so far as is reasonable in the circumstances' should follow. If the government has taken a decision, cabinet would already have been advised of the Treasury impact of that. If the government has made an announcement, it should have already taken into account the financial implications of that. It is only in other circumstances that the words 'in so far as is reasonable' should apply because of the circumstances the Premier indicated in previous answers—for example, the federal government case and the Timor issue, which are matters, the final expenditure on which no-one knows. There is an example there.

By having the words 'in so far as is reasonable in the circumstances' before the words 'or government decisions or announcements' could possibly leave an out to some degree for future governments. I will leave the Premier to contemplate that and I will get some advice between houses. In the final analysis the Premier may think it is the right balance. I wanted to raise that point rather than seek a definite answer on it today. There needs to be an amendment to new section 41B(6), paragraph (a) of which provides:

> must be prepared without political interference or direction.

I suggest to the Premier that neither the Treasurer nor any minister or ministerial staffer should be able to be briefed by the Under Treasurer. This is where the Under Treasurer is preparing the report that will be released in the middle of the election campaign. You are saying that the report itself cannot be prepared without political interference or direction but, as I understand it, this bill does not stop the Treasurer from seeking a briefing on the report. In seeking a briefing the Treasurer is not politically interfering with the contents or preparation of the report, but the Treasurer or a political adviser could get an advantage by seeking a briefing from the Under Treasurer on the contents.

I know that is not the intention, but the bill allows it, because by seeking a briefing you are not giving the Under Treasurer a direction as to how the document or contents will be prepared or presented and you are not politically interfering in the contents, presentation or style of that report. So, the Under Treasurer could easily go away and prepare that document in accordance with the act and the Treasurer could then say, 'I know you have to release it on the fourteenth

day', so on the thirteenth day the Treasurer, his staffers or any member of the political wing of the government could request a briefing to give the government an advantage during that process. Richard Court, had he received a brief, may have had the media ready to combat the bad news that came out. If the bill is to protect against that, I do not think it does.

At the moment the Treasurer under this definition could seek a briefing at any time during that 14 day process and he or she would not be breaching this act. I ask the Premier to look at that issue between houses to see whether that needs to be tightened as well.

The Hon. M.D. RANN: We have caretaker conventions in South Australia, so under those conventions the same option would be available to the shadow treasurer. During the previous election campaign we were advised of those caretaker conventions, but they were breached by the fact that Kevin Foley was denied due and appropriate access to Treasury. We want to change all that, so that during the convention period briefings will be available to the shadow treasurer.

Mr WILLIAMS: In the answer the Premier gave to the member for Davenport's first question on this clause with regard to cost pressures and whether they would need to be identified in the pre-election update report, he stated that it would be identified in the report. Can the Premier assure the house that this will not compromise any negotiations the government may be carrying out at the time? The situation just prior to the election we had earlier this year was that the government was negotiating a major pay award with the teachers union and the teachers, which is one of the major costs to the state budget. The then treasurer was very well aware of the possibility of compromising those negotiations by displaying for all to see what money was to be put away as a cost pressure for that line in the budget. As a consequence, he argued that the money was put away under another line—under a contingency. Can the Premier assure us that it will not be a problem and that the government of the day, whoever it is, will not be compromised in any negotiations they are conducting at the time?

The Hon. M.D. RANN: It seems that the honourable member, who a few minutes ago was implying that the bill would have no effect, is now saying that it will have an effect. If he read page 5, he would have seen new subsection 5(c), which provides:

(c) does not have to include information that the Under Treasurer considers should not be included because—

(i) it is confidential commercial information; or

(ii) its disclosure in the report could prejudice the interests of the state.

The Hon. I.F. EVANS: I make the point—and I thank the chair and the Premier for their tolerance during this short debate—that the answer the Premier just gave to the member for MacKillop correctly interprets the bill, namely, that the Under Treasurer has a judgment on a matter that may be commercial in confidence or not be in the state's best interest and he does not reveal it in the public document. Is it the intention of the government that he will reveal those matters in confidence in the briefings to the Treasurer and the shadow treasurer?

The Hon. M.D. RANN: It would be inappropriate during the caretaker period.

Clause passed.

Clause 7 and title passed.

Bill reported without amendment.

Bill read a third time and passed.

OMBUDSMAN (HONESTY AND ACCOUNTABILITY IN GOVERNMENT) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 8 May. Page 47.)

Ms CHAPMAN (Bragg): I indicate that the opposition proposes to support this bill, which was introduced by the Premier on 8 May 2002. It is important for the opposition to record that the government claims this bill to be consistent with the so-called 10 point plan for accountability and honesty in government. Let me say that, if any of these pieces of legislation which are being considered today and I understand tomorrow have the effect of making the government honest and accountable, that will be pleasing to all members of this house and hopefully the public in South Australia.

However, let us remind ourselves of what the essential elements in the 10 point plan are, because indeed we will see over the lifetime of this government whether these bills have the effect of making it honest and accountable. The first point of the plan is to increase the independence, powers and authority of the Auditor-General. Secondly, to ensure that the Auditor-General can review all private sector contracts with government. Thirdly, to amend the Public Finance and Audit Act to increase public accountability. The fourth point is to improve financial reporting by government departments, and the fifth is to impose penalties for the improper use of information acquired through government contracts. Sixthly, I refer to a strengthening of the powers of the state Ombudsman. The seventh point is to improve the freedom of information guidelines, and the eighth to enforce a toughened ministerial code of conduct. The ninth point is to introduce a code of conduct for all MPs; and, finally, to introduce a code of conduct for all chief executive officers and members of government boards. Well, we shall see.

This bill relates to the powers and responsibilities of the Ombudsman. In this respect, the Labor government has said:

The office of the Ombudsman was established in 1972 with a proclamation of the Ombudsman Act SA. The extensive contracting out and privatisation of government functions and services by the Liberal government over the last few years, however, has significantly limited the ability of the Ombudsman to investigate complaints especially in the areas of government now privatised or outsourced. The Liberal government established an Electricity Industry Ombudsman in October 1999 following the privatisation of the electricity industry in South Australia.

Labor will investigate how complaints against areas of government which have been privatised or contracted out can better be handled.

A Labor government will review the Ombudsman Act and broaden the powers of the Ombudsman to ensure that he can fully investigate claims made by the public against government agencies.

The existing position is that the Ombudsman Act 1972 empowers the Ombudsman to investigate any administrative act of any 'agency', that is, government department, statutory authority or other authority declared by proclamation. The Ombudsman has the power only to make recommendations and report to the parliament if those recommendations are not complied with.

Indeed, most investigations by the Ombudsman follow a complaint by a citizen. Although the current act does allow the Ombudsman to act on his or her own initiative, it does not authorise the Ombudsman to conduct a general audit of the administrative procedures of the agency. That is the present position.

This bill (introduced by the Premier) has a number of essential features which I propose to outline as we see it. First, the administrative acts which are subject to Ombudsman's jurisdiction will now include 'an act done in the performance of functions conferred under a contract for services with the crown or an agency to which the act applies'. That is an extension of that jurisdiction. Secondly, the government will have the power to declare by regulation that any person, body or company is an agency in respect of which the Ombudsman has power to investigate.

Thirdly, the Ombudsman will be empowered to 'conduct a review of administrative practices and procedures of an agency (that is, to conduct an "administrative audit")'. That is clearly new. Fourthly, the statutory officers committee of the parliament which hitherto has had a role only in overseeing the appointment of a new Ombudsman will be required to provide an annual report to the parliament on 'the general operation' of the Ombudsman Act. Fifthly, agencies will be prohibited from using the word 'Ombudsman' in their own complaints handling procedures. The Ombudsman, as we understand it, supports the bill, and most of the measures have been mentioned in his annual reports. Of course, the opposition has taken note of that.

The opposition confirms that the extension of the Ombudsman's mandate to non-government organisations which take into account other government functions is indeed logical. Perhaps one of the most obvious examples is the complaint by a prisoner. It is worth noting that this is by far the largest category of complaint: 785 out of 1 783 complaints finalised in 2002 related to correctional institutions. Obviously this is a major portion of the Ombudsman's work at present. It is reasonable to have it recorded that there is no reason why the Ombudsman should not have the power to investigate the complaints of prisoners from all gaols, including the Mount Gambier prison, which is operated by a private provider, Group 4.

Two of the most prominent outsourcing contracts are the United Water contract and the Modbury Hospital contract. However, the extension of the Ombudsman's powers to these contracts is unlikely to have an adverse impact, because, in the case of water, the consumer's relationship is still with SA Water, a government agency already covered by the Ombudsman; likewise the Modbury Hospital, where the incorporated hospital board continues in existence with Healthscope as its manager. Outsourced transport operators may be the subject of consumer complaints which the company itself does not resolve to the satisfaction of the consumer. In any event, the PTB retains power to enforce the performance standards in the contract.

One of the matters I do wish to record is the question of the extent of the new Ombudsman's responsibilities and indeed powers as to agencies. I utter one word of caution in relation to an issue that I will raise during the committee stage, that is, the extent to which other perhaps unintended persons may be captured by this legislation. Let me raise a very simple example, namely, a self-employed person who undertakes a contract for a school to do its cleaning. They find themselves within the purview of the Ombudsman's area of responsibility, not just to hear a complaint but, more significantly, to have the person be the subject of an audit. One wonders whether that was the intent of the government or of the Premier in defining those who are to be covered by this bill.

There is also the issue, which I will raise again in committee, that relates to the question of the government using regulation powers to determine the jurisdiction of the Ombudsman. Provision for legislation by regulation is included in clause 3, under the definition of 'agency', and it lists a number of organisations or groupings to which the bill is to apply, and adds in paragraph (e) the words 'a person or body declared by the regulation to be an agency to which this act applies'. We have a list of all the usual suspects, if I can describe them that way, plus the regulatory power to add in anyone else as may be determined by regulation.

I note also with some interest a government amendment to be moved by the Premier, and I note there is another amendment by my colleague the member for Stuart. The government's amendment, marked 4(2), seeks to use this same power by regulation to, in this case, confine the limits of the definition of 'administrative act' in clause 3 of the said bill and, in particular, when defining administrative act as acts that it relates to, it is then restricted by those exercising the discharge of judicial authority and in their capacity as legal adviser to the Crown or, and here we see these words again, 'an act of a class declared by the regulations not to be an administrative act for the purpose of this definition'.

This inclusion of the power by regulation is a matter of concern to our party and it will be a matter that I anticipate will attract attention between here and another place, with the drafting of an amendment to help resolve the issue. It is not a matter which we suggest in any way should be raised as a means, notwithstanding the lateness of the amendment being presented, of suggesting that there be any adjourned consideration of this matter. This matter can be dealt with between houses and I am sure that it can be appropriately and competently attended to in that way.

On behalf of the opposition, I am aware of the amendment that has been published by the member for Stuart. It is identified as 4(1) and it relates to investigations relating to photographic detection devices. I have no doubt that the member will outline the basis upon which he seeks to insert the new section 14B, covering specifically an obligation by the Ombudsman to undertake an investigation into photographic detection devices. The honourable member will no doubt explain his reasons why it is appropriate or necessary to do so.

I note, with due respect to him, that clause 5 in the Premier's bill, which proposes to include a new section 14A in the Ombudsman Act, makes provision for the Ombudsman to conduct a review of administrative practices and procedures of an agency if he 'considers it to be in the public interest to do so', and if he did consider that it was in the public interest to conduct an investigation into photographic detection devices, then under the new bill he would have the power to do so. No doubt, as he always does, the honourable member will provide some very clear illumination in his reply as to the significance and importance of this amendment, so I do not propose to canvass it any further. I indicate that the opposition supports the bill.

Dr McFETRIDGE (Morphett): I rise to support this bill. We have always tried in this place to be open and honest and I know that the government is continuing with that claim of being open and honest, and I hope that I am able to offer my support to help it be so. The role of the Ombudsman is one that I am particularly interested in because, being fair, as well as being open and honest, is absolutely vital in today's society. While people can act with openness and, in their own mind, with honesty, they may be acting with some degree of ignorance. Although ignorance is no excuse when it comes

to the interpretation of the law, it is my understanding that the Ombudsman, in fulfilling his role, is able to give not just the benefit of the doubt but an interpretation of whether people were acting in a genuinely honest fashion, whether there was any intent to mislead or act corruptly.

This bill extends the Ombudsman's role to government agencies and my particular concern from that extension is school councils. This matter was raised before the Brighton Secondary School council. This bill might have nothing to do with it, but I feel I must raise this point. As it acts on behalf of the school, the Brighton Secondary School Governing Council discusses a range of issues from the appointment of cleaners to the appointment of teachers. The council was concerned as to whether, had it acted openly and honestly, as a government agent, it would be liable for any culpability, any costs, blame, or any action it might have taken. The example on the night in question was the appointment of a school cleaner.

While under this legislation the cleaners could be examined and, if they were found to be acting dishonestly and were involved in corrupt, deceitful or dishonest practices they should be made accountable and hung out to dry, I would hate to see any liability or culpability transferred to the school council, so I hope that will be made clear by explanation in committee or by the Premier in his reply.

The main aim of the bill is to ensure that the Ombudsman is able to investigate any agency. I support the role of the Ombudsman in all he does at the moment and I support this extension of his role in looking into government agencies at all levels. I look forward to finding out whether the Brighton Secondary School council will be held liable in any way for acts of dishonesty on behalf of any of its employees.

Mr VENNING (Schubert): I rise in support of this motion today; I certainly support the strengthening of the power of the Ombudsman. I always feel that in public life he who has nothing to hide has nothing to fear about strengthening the powers of the umpire, and I do not think anybody in this house would have any problem with that. Honesty and accountability in government is an ideal that we all ought to seek to attain or achieve, and I do not think anyone in here would have a problem with that. I have appreciated working with the current Ombudsman, Mr Eugene Biganovski; he has been very helpful, obliging and professional in his dealings with my office, my constituents and me.

As would most members, I have some perennial constituents who regularly ring our office with genuine grizzles about government at its various levels. I could be guilty of saying, 'This is a job for the Ombudsman,' knowing that it was a bit too difficult for me to handle or perhaps I was a little tired of hearing the same argument. Mr Biganovski always replied civilly and politely and, if he could do anything about the problem, he usually did. I certainly appreciate the work he does.

The role of the Ombudsman has been received well here by the public and the government alike. People who feel aggrieved have somewhere to go. I wonder what we did prior to 1972, before there was an ombudsman. I understand and appreciate why the government has brought in this bill, particularly given that many government services have now been outsourced. I think it is smart to be able to expand the capacities and powers of the Ombudsman, where possible, to cover some of these outsourced services, particularly where they are essential services and people rely on them. Often it is the only service available and it should come under the watchful eye of the Ombudsman, so I do not have any problem with that at all. From speaking with my colleague the member for Stuart I would certainly support amendments, and two come to mind. First, I am happy to see the inclusion of speed cameras, because many people are caught with speed cameras and there is some debate. People must have the right to have their case reviewed if they do not have satisfaction.

I do not see any reason at all why speed cameras cannot be included because, after all, they are semi-government, they are accused of being fundraisers for governments and it is always an area of conflict. I would certainly support the member for Stuart in his desire to bring in that amendment one way or another. If he does not do it here, no doubt there will be some negotiation. I hope the Premier and the government would consider that, because I do not see any problem with that at all. I will also support an amendment to remove the power of the government to extend the definition of agency by regulation.

I believe that anything like that should always come before the house for a decision, because to alter the word 'agency' by regulation means that at any time the government could change one of the vital words, particularly the definition of what is an agency. That would concern me quite a deal. I hope the government will look at that and address it because, if it is confident it is doing the right thing, a decision like that should always be subject to the parliament. I hope the government would agree to that. That is about all I have to say on this. Again I congratulate and thank the current Ombudsman, Mr Eugene Biganovski, and his staff for doing a great job for us. I have no problem in supporting government's providing for increased powers.

Mr MEIER (Goyder): I, too, rise to support this bill. I note that in the Premier's second reading speech he said:

> At the last election Labor promised to investigate how complaints against areas of government which have been privatised or contracted out can better be handled.

This bill seeks to address that issue. There is no doubt that the Ombudsman has been a very important institution in this state. In fact, it was one of my predecessor whips, the Hon. Stan Evans, who pushed for some time to get an ombudsman established here, and eventually the parliament established the position of ombudsman. I know that in my work on a day-to-day basis it is surprising how often the various avenues are explored, people come to the MP, they have tried in the department, they have not got anywhere, perhaps they have tried at a higher level and not got anywhere, they come to the MP and the MP cannot get anywhere and they have the Ombudsman as the end of the line to make further investigation. The Ombudsman has powers to investigate further than an MP, perhaps no more powers than a minister, but it is important and has helped to resolve issues, and the Ombudsman helps to keep a level of honesty in some areas that would be lacking otherwise. I have no real problems with extending it.

The Premier might be able to answer this. I am not sure what it means when one of the clauses provides that it will apply to privatised organisations. We already have the Electricity Ombudsman, whom I must admit my office has already used from time to time. I know that this will not replace the Electricity Ombudsman, but I guess it overcomes the problem of providing an ombudsman in those areas not covered by a specific one. Having served on the Legislative Review Committee in the last—

The Hon. M.D. Rann: And served it well.

Mr MEIER: I appreciate those comments from the Premier; I really do. My colleague the member for Torrens was also on that Legislative Review Committee; she also served that committee exceptionally well, and it was a pleasure to serve on it with her. We started to look into the matter of an ombudsman generally. So, this area is not new, and I acknowledge that the new government has said, 'We do not want to look at it any further but we will bring it in.' That is good to see because, as the Premier would know, I got a bit upset that there are so many reviews in some other areas, where I was saying, 'Let's not review; let's act.' That is by the by.

The amendment that the member for Stuart has foreshadowed has my 100 per cent support. I think it will be wonderful to see this Ombudsman being able to investigate a complaint or on his own initiative conduct an investigation to determine the accuracy with which a particular photographic detection device used to provide evidence of speeding offences registers vehicle speeds. Recently, I happened to be the recipient of an expiation notice on the coast road travelling north of Ardrossan towards Port Wakefield and to this day I am still absolutely certain I was not travelling the speed at which I was detected. I have a fair bit of evidence to back this up. I have a speed detection unit in my motor car—

The Hon. M.D. Rann: A radar detection unit?

Mr MEIER: No; unfortunately it does not detect radar, but it does identify when I have gone beyond a certain speed. So, I can set it at 100, 110, 115 or 120. If my memory serves me correctly I had it set at 115. I always think that a bit of flexibility is allowed.

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

Mr MEIER: As I was saying before the dinner break, I give my full support to the amendment foreshadowed by the member for Stuart in relation to this bill which relates to the Ombudsman having the right to conduct an investigation to determine the accuracy with which a particular photographic detection device used to provide evidence of speeding offences registers vehicles' speeds.

As I also said, recently whilst motoring along the coastal road of Yorke Peninsula, north of Ardrossan, I was stopped by a police patrol. In fact, the patrol car was a black Commodore with what I would describe as surf racks on top, and this car flashed its lights at me. I gave a hearty wave, and it was only subsequent to that that I thought, 'By golly, I think it was more than just a polite flash to say "I recognise you as the local member".' So, I pulled over, and at that stage I noticed blue and red flashing lights through the windscreen of that car, and it turned around and came up behind me.

It was a particularly windy day, and I remember the trees bending in the wind. I hopped out of the car and was halfway to this black Commodore when a police officer stepped out and said, 'Excuse me, sir, you were doing 127 kilometres per hour.' I said, 'That wouldn't be right because I had my speed detector switched on.' I think it was set at 115, so I said, 'I would have registered the sound of that beep.' Nevertheless, I gave my point of view and they then asked me to sit in my car while they discussed it in their car. Some minutes later, one of the police officers ventured out again and said, 'Here is your expiation notice for $215.' I was most unimpressed, because still to this day I believe I was not speeding. I say that because—

The Hon. M.D. Rann: You look guilty!

Mr MEIER: I think that is very unfair of the honourable Premier. To this day, I remember taking up a case for a lady who was detected by a speed camera for travelling well in excess of the 60 km/h limit, and she said, 'Look, Mr Meier, I was actually coming into a corner.' It was in Adelaide, and she said, 'I would have been doing a maximum of 40.' I cannot remember but I think she was pinged for doing 70 or 80 km/h. I took up that case and she was let off.

I remember at the time a few incidents were highlighted in the media, one of which involved a Stobie pole. They are those objects cars can hit, but they do not generally move that fast. But that Stobie pole was actually detected by a speed camera for doing 140 km/h! I think to myself, 'Why was I picked up for 127 km/h?' I think I know the answer. The answer is that there was a significant amount of wind, and I still recall the trees blowing in the wind. This police car just appeared over the rise and suddenly its lights flashed. It supposedly detected my speed at that moment. I would not be surprised at all if that speed detection unit had picked up the leaves blowing in the wind at 127 km/h, because I cannot to this day work out how I could possibly have been doing that speed. But what is the use of arguing?

I will be quite honest. I rang the office of the Minister for Police shortly thereafter and said, 'I want an investigation into this. I do not believe that that camera was right. I want this police car, the black Commodore with surf racks, to have its speed detection unit tested, because I don't believe it is operating correctly.' But even then, when I was ringing, I thought it would not work, because they will test the unit on a clear day when no wind is blowing, and the test will say that it is 100 per cent accurate. The day I was picked up it was blowing to a significant degree, so I thought that would not work, either.

With due respect to the office of the Minister for Police, the answer came back within 24 hours or so that under no circumstances could the minister take up my case. If I wanted to do it, I would have to go to the Commissioner. I thought about it further and decided to pay the $215, thinking, 'It is one you have lost, John.' That is all there is to it. I believe that the member for Stuart's amendment is at least an avenue that members of the public, as well as members of parliament, can go through if they are picked up.

Members of parliament who represent country electorates—and you would appreciate this, Mr Speaker—travel many thousands of kilometres per year. My kilometres vary between 40 000 and 50 000 kilometres per year. So it is a significant distance to travel. If we speed, we have a greater chance to be picked up by speed cameras, or in this case a speed detection device in an oncoming police vehicle, than the average member of the public because of the distances we travel. Certainly I still query the accuracy of the device in the police car.

If I had gone to court to prove my case, it would have cost me much more than $215, so I thought: all right, take it and wear it. I will say that I actually did not have any demerit points registered against me at the time. Obviously, now, however, I have three points registered against me, and I realise that if in the future I have 12 points I will lose my licence, and my effectiveness as a member of parliament would decrease significantly.

The one positive thing, I suppose, that came out of this is that I do take particular notice of my speed. I make sure that my speed detection device on my car is set, and when the beeps go if I exceed that speed I reduce my speed. Nevertheless, despite that, even when I am passing a vehicle, I think,

'Golly, you are exceeding the speed limit. What if you happen to go through a camera now? You will be caught.' But I will perhaps accept those sorts of things. I am still very much aggrieved, as I fully believe I was not doing the alleged 127 km/h when I was stopped. I still believe it was an exceptionally windy day and the detection device picked up the trees. Just as I said, it was identified that a Stobie pole was doing 140 km/h a few years ago. To prove it will be almost impossible.

I look forward to the member for Stuart moving this amendment in committee. Otherwise, as I said earlier, having served on the Legislative Review Committee, I recognise that there is some need for the Ombudsman to have his powers extended. Probably this will be a positive move in our society here in South Australia.

The Hon. M.D. RANN (Premier): I thank honourable members for their contributions. I think all members are aware that what we are trying to do with this suite of legislation is improve honesty and accountability, and we will be doing that by way of a range of measures, not just the charter of financial responsibility which is based on the Queensland charter but also by including provisions that apply in the federal legislation and legislation in other states, including Western Australia. It will also give greater independence to and widen the purview of both the Auditor-General and the Ombudsman.

I believe that most of the things I outlined in the second reading explanation still apply, although I am concerned by the constant reference to the speed cameras issue. I am prepared to look at this, and I know that the member for Stuart intends to move an amendment. Whether he considers having that moved in the upper house or proceeding with it now, be that as it may. I have just been advised that the Police Commissioner himself certifies the accuracy of the speed cameras, and they are checked every day. I think all of us were moved by the honourable member's very sad story about when he was apparently pinged on a windy day.

Members interjecting:

The Hon. M.D. RANN: I have been advised by the members behind me that the member for Wright gets pinged on an even more regular basis than the member for Goyder, so this is almost like a true confessions evening. However, the Police Complaints Authority is supposed to deal with matters under the purview of the Police Commissioner. It is the Police Commissioner himself, apparently, who certifies the accuracy of these machines. We are already giving the Ombudsman a wider purview to his ambit and, if we swamp him with a whole series of vexatious inquiries about the accuracy of speed cameras, I am concerned that he would be deluged and that this would make his job inoperable.

There needs to be commonsense in the parliament, because we do not want a situation where the Ombudsman spends all his time dealing with people who just happen to be annoyed because, unlike the member for Goyder, they had broken the speed laws, did not like the fact that they had been pinged and, therefore, wanted to question constantly the accuracy of speed cameras, which accuracy is certified, I have been advised, by the Police Commissioner. We are trying to ensure that people who have complaints against the outsourced utilities have an avenue for redress. We think it is important that the Ombudsman can not only investigate but also conciliate. I am happy to talk to the member for Stuart. I almost called him the member for Eyre, because I have just been reading a speech in which I praised the member for Eyre in November 1991, in the amendments to the Maralinga Tjarutja bill, which provided for the addition of 3 000 square kilometres of land around Ooldea. It has taken me 11 years to praise the member for Stuart for the central role he played in that situation. I am prepared to listen to the member's argument if we can proceed expeditiously to get this important matter through this house.

Bill read a second time.

The Hon. G.M. GUNN (Stuart): I move:

That it be an instruction to the Committee of the Whole House on the bill that it have power to consider a new clause relating to Ombudsman investigations relating to photographic detection devices.

Motion carried.

In committee.

Clauses 1 and 2 passed.

Clause 3.

The Hon. M.D. RANN: I move:

Page 3, lines 18 and 19—Leave out all the words in these lines and insert:

but does not include—

(c) an act done in the discharge of a judicial authority; or

(d) an act done by a person in the capacity of legal adviser to the Crown; or

(e) an act of a class declared by the regulations not to be an administrative act for the purposes of this definition.

This amendment will amend the definition of 'administrative act' to allow regulations to be made declaring that an act of a class not be an administrative act for the purposes of the definition. Clause 3A of the bill expands the definition of 'administrative act' to include an act done in performance of functions conferred under a contract for services with the crown or an agency to which the act applies. This revised definition is intended to clarify the position of the Ombudsman in relation to acts performed under such contracts. During the consultation process, some concern was expressed at the width of the revised definition. Reference to the term 'contract for services' is not limited and so would cover any contract for services entered into by an agency, not just those that were previously performed by an agency.

However, the government has taken the view that it would be difficult to extend the definition in terms of what functions were previously performed by government and those that were not. Obviously, functions performed by the state and local government have changed considerably over time. Whilst the representations to date have not identified any contracts for services that the government thinks should be excluded from the definition, this amendment will allow regulations to be made declaring that an act of a class not be an administrative act. It is not expected that this power would be used widely; rather, it is a safeguard to ensure that there is some flexibility if it is found that the extended definition has any unforeseen consequences in any particular areas.

Ms CHAPMAN: Can I inquire as to what body or persons gave advice to change that?

The Hon. M.D. RANN: As you know, we tried to consult quite widely on this, including consulting with the opposition, the Public Service Association and also with the Local Government Association. I have been advised that it follows some general concerns from both the opposition and the Local Government Association that we might have struck the definition too widely.

Ms CHAPMAN: Was any consideration given to restricting the definition by an amendment of this house, as distinct from regulation?

The Hon. M.D. RANN: Because no specific case or example had been put forward by anyone, as I understand it—there was a general concern—it was almost impossible to define a problem that people saw in a generic way. Because people could not identify a specific problem, or indeed provide a suitable definition, it was thought the flexibility of regulation might be the best way should such a problem occur.

Ms CHAPMAN: In the absence of any identified example by any person giving a submission, would the Premier identify any specific examples that he sees would fall into this category?

The Hon. M.D. RANN: No, it is just that we were trying to respond generously to a generic or general concern that this might be being struck too widely. So, we thought that, in case some problem came up, rather than dragging it through the parliament again when no-one was coming up with any specific issues or, indeed, definitions, we would allow ourselves the flexibility of a regulation should a problem occur.

Ms CHAPMAN: In the absence of any identified example by the Premier, is there any value of consideration of a contract between a provider and an agency and the government? Has anyone considered even some identification of value that would apply to this? We have no example from anyone who has made a complaint; we have no example from the government about where this leads or as to what will be excluded. Could it be for contracts worth less than $1 000? Would it cover the school cleaner example that I gave in my address?

The Hon. M.D. RANN: The member raised the school cleaning contract issue in her eloquent address, and various other people raised those kinds of things, but there was nothing really specific. So, I think that if we leave it 'by regulation' we can deal with anything that comes up, should there be a problem.

Amendment carried.

Ms CHAPMAN: In relation to the definition of 'agency' to which this act applies—and this may or may not cover this—a number of different groups have been identified in there, and again we have in this case 'a power by regulation to include' and 'a power by regulation to exclude' for the purpose of this area. Is that for the same reason, that is, general concern by unspecified parties of unspecified items?

The Hon. M.D. RANN: An issue has been raised in the discussions in relation to the definition of 'agency' and, in particular, the fact that a person or body can be declared to be an agency to which the act applies. This is consistent with the approach adopted in the Freedom of Information Act. I also point out that currently the act provides that an authority includes a body created under an act and declared by proclamation to be an authority.

Ms CHAPMAN: Why is not this proposed clause by proclamation and not by regulation?

The Hon. M.D. RANN: Because a regulation is subject to disallowance, and thereby there would be more public scrutiny.

Clause as amended passed.

Clause 4 passed.

Clause 5.

The Hon. G.M. GUNN: I move:

Page 5—

Line 16—Leave out 'section is' and insert: sections are

After line 23—Insert new section as follows:

Investigations relating to photographic detection devices

14B(1) The Ombudsman may, either on receipt of a complaint or on the Ombudsman's own initiative, conduct an investigation to determine the accuracy with which a particular photographic detection device used to provide evidence of speeding offences registers vehicle speeds.

(2) The provisions of this act apply in relation to an investigation under subsection (1) as if it were an investigation of an administrative act under this act, subject to such modifications as may be necessary, or as may be prescribed.

(3) The Ombudsman must include in an annual report under section 29 information on the results of any investigations under this section conducted during the preceding year.

(4) The Ombudsman may, at any time, make a report to the Speaker of the House of Assembly and the President of the Legislative Council on the results of an investigation under this section, with a request that the report be laid before their respective houses.

(5) In this section—

'photographic detection device' has the same meaning as in section 79B of the Road Traffic Act 1961;

'speeding offence' means an offence involving the driving of a vehicle at a speed in excess of the applicable speed limit.

I understand that the Ombudsman already has the ability not to deal with frivolous, vexatious or other silly complaints. The Ombudsman has proved to this house and the community that he and his predecessors are people with great tolerance and understanding. They receive a huge number of what one would class as rather unique complaints which have no substance to them whatsoever. My amendment purely brings to this committee the ability to ensure that these devices are checked occasionally by a completely independent person, because we know that they are an important source of revenue to the Treasury of South Australia.

An interesting thing that I have seen in my time in this place is that when I raised various matters about speed cameras during the time of the previous government, the most stringent critic was the Treasurer (and I understand former treasurer Blevins was of a similar view), and it seems that these things have some unique interest to the Treasury.

However, we are talking about giving an office to this parliament. The Ombudsman plays a very important role in our democratic process, and he has the ability to independently adjudicate and make a report to this parliament. He has no power to direct, nor should he have, in my view. However, he has the ability to table in this parliament. It is very important that the average citizen knows that, if they can convince the Ombudsman or his officers that there is a problem, he then draws it to the attention of the department and, if nothing happens, then it comes to this parliament—and we all know what happens then.

So, this amendment is moved with the best will in the world. I know that I do not want to criticise the Commissioner of Police or his officers, but I do believe that in a democracy people need to be assured that the processes of government are above question and that they are subject to independent appeal.

I feel sorry for the member for Goyder and his difficulty, and it is some time since I have been through that exercise, as I have been particularly careful and cautious since I have had to drive myself again. I saw today a number of police

cars which have a nasty habit of sitting on the side of the road pointing devices, but I have not been stopped. One knows one has a problem when a fellow with a bright vest steps out in the middle of the road and puts his hand up because you know he is not wanting to wish you well!

An honourable member interjecting:

The Hon. G.M. GUNN: I don't know if the Premier has had the experience.

The Hon. M.D. Rann: I have not had a traffic fine for 15 years.

The Hon. G.M. GUNN: How long since you drove yourself?

Members interjecting:

The CHAIRMAN: Order! This is not a time for true confessions.

The Hon. G.M. GUNN: It is probably a long time since the Premier has done a lot of driving. I personally believe that the Premier should not be driving himself whilst he is Premier, anyway, as I do not think it is proper for him to do that. There are good reasons for that, but I will not go into that matter.

An honourable member interjecting:

The Hon. G.M. GUNN: No, the Premier has other things to think about other than driving himself. I firmly believe that. It is one of the important perks that we give people in a democracy; and anyone that criticises that is reacting very foolishly. I therefore appeal to the Premier to give this matter proper consideration. I believe that we need to be very careful in protecting people's rights, and a difficulty with on-the-spot fines is that we take away people's rights, as the fines are arbitrarily imposed. And, when an individual is taken to court by the government or its instrumentalities, they are at a grave disadvantage because, if they have to employ legal counsel, that counsel does not do it because they want to be helpful. Rather, they do it for a considerable fee, which is often beyond the capacity of the individual to pay and will be a lot more than the fine. So, people are placed at a disadvantage.

I think this committee ought to make a positive decision this evening. We have not had many votes, and I think it is time we had a bit of a discussion. I therefore look forward to the committee's favourable consideration of these amendments.

Mr MEIER: I think I said everything that needed to be said in my second reading speech. I thoroughly support this amendment.

The Hon. M.D. RANN: This amendment would enable the Ombudsman to conduct an investigation to determine the accuracy with which a particular photographic detection device registers vehicle speeds. I regret to inform the committee that this amendment is opposed by the government because this is not a proper function of the Ombudsman. Photographic detection devices are approved by the Governor under the Road Traffic Act. The regulations set out details relating to the operation and testing of photographic detection devices. Regulation 19 sets out the requirements. For example, it provides that the accuracy with which a device registers vehicle speeds must be tested on the day on which it is used or on the day immediately preceding that day with a view to the issuing of a certificate under section 175(3)(ba) of the act.

In proceedings for an offence involving a photographic detection device the Commissioner of Police or a senior member of the police force certifies that a specified device used at a specified location during a specified period was a photographic detection device and that the requirements of the act and the regulations as to the operation and testing of photographic detection devices were complied with in connection with the use of that device during that period. The certification is accepted as proof in the absence of proof to the contrary of the facts so certified.

Given that the Road Traffic Act already deals with the accuracy of the machines, the amendment is therefore not supported. The government does not accept that such an amendment is necessary but, even if it were, there is the issue of whether the Ombudsman would be the appropriate authority. Section 5(2) of the Ombudsman Act provides that the act does not apply or relate to any complaint to which the Police (Complaints and Disciplinary Proceedings) Act 1985 applies or any matter to which that act would apply if the matter were the subject of a complaint under that act. Therefore—and I think this is the important point for the member for Stuart to take on board—complaints against the actions of police, including police security, are generally dealt with by the Police Complaints Authority and not the Ombudsman.

Mr BRINDAL: I would like to support my colleague and ask the Premier to change his mind. As I think my colleague pointed out, this is a case of, as in ancient Rome, Caesar's wife must not only be pure, she must be seen to be pure. The Premier will remember when he was last in government a case involving the then minister for police (Hon. Kym Mayes). There was a photographic device detecting people travelling at 187 kilometres per hour down Diagonal Road at Warradale. I believe there was some sort of a difference of opinion between the then minister and the Commissioner of Police which resulted in the radar devices being withdrawn for two or three days. I accept that procedures—

The Hon. M.D. Rann: These are new procedures.

Mr BRINDAL: Yes. I accept that procedures may have been tightened up since then, but my colleague argues—I think quite rightly—that, notwithstanding what procedures exist, people can make a mistake. The Premier says that the evidence tendered by police is accepted in absence of proof to the contrary. If someone is speeding down a street and the device is not accurate, what proof can an elector offer to the contrary because we simply do not have the facilities or the ability to refute the police evidence that that device on that day was accurate?

What the honourable member is arguing—I am sure—is that this is just another method of ensuring that the public have confidence. He is not arguing that the Ombudsman has to rush out every day and check every device. He is arguing that, on occasion, he has the right to randomly check these devices and that that will make the public more certain that these sorts of things will not happen. The Premier has argued in this house—in public and often—that what we should have in this place is a bipartisan approach.

The Hon. M.D. Rann: I do my best.

Mr BRINDAL: I know you like that approach, and this is a very sensible amendment suggested by a senior member of this party—

The Hon. M.D. Rann: The grandfather of the house.

Mr BRINDAL: —who has probably been here for longer than both of us combined. If he can sit here for all of that time and come up with this amendment, it deserves to be considered. I think it would be a little churlish of the government not to realise that this is constructive opposition. This is a sensible, decent amendment put forward in good faith to protect the people of South Australia. That is what the Premier wants, and that is what we want.

The Hon. M.D. Rann: If it's his farewell amendment, that might be another consideration.

The CHAIRMAN: Order! I am not sure whether the member for Unley was suggesting that this should be a grandfather clause.

The committee divided on the amendment:

AYES (19)

Brindal, M. K.	Buckby, M. R.
Chapman, V. A.	Evans, I. F.
Goldsworthy, R. M.	Gunn, G. M. (teller)
Hall, J. L.	Hamilton-Smith, M. L. J.
Kerin, R. G.	Kotz, D. C.
Lewis, I. P.	Matthew, W. A.
McFetridge, D.	Meier, E. J.
Penfold, E. M.	Redmond, I. M.
Scalzi, G.	Venning, I. H.
Williams, M. R.	

NOES (22)

Atkinson, M. J.	Bedford, F. E.
Breuer, L. R.	Caica, P.
Conlon, P. F.	Foley, K. O.
Geraghty, R. K.	Hanna, K.
Key, S. W.	Koutsantonis, T.
Lomax-Smith, J. D.	Maywald, K. A.
McEwen, R. J.	O'Brien, M. F.
Rankine, J. M.	Rann, M. D. (teller)
Rau, J. R.	Snelling, J. J.
Stevens, L.	Thompson, M. G.
Weatherill, J. N.	Wright, M. J.

PAIR(S)

Brown, D. C.	White, P. L.
Brokenshire, R. L.	Ciccarello, V.

Majority of 3 for the noes.

Amendment thus negatived; clause passed.

Clause 6.

Ms CHAPMAN: I refer to proposed new section 32. I refer to the use of the word 'ombudsman'. This clause seeks to prohibit the use of the word 'ombudsman' to describe a process or procedure by which the agency investigates and resolves its complaints against the agency. The agency was already proposed to be defined in the legislation to cover the large rather extensive group of people who would come under the purview of the previous act, plus those bodies which enter into some contractual arrangement with the government, plus that group which by regulation are proposed to be captured in this category. This is an unusual clause and I wish to ask a couple of questions on it, because 'ombudsman', whether a judge, minister, premier or anyone else, does not automatically cover it with the exclusive right to use of a word. Obviously there are particular qualities that apply to an ombudsman in terms of being appointed to the position. He has to be alive, be under 65, cannot be bankrupt, cannot have been imprisoned, charged with a felony or convicted of an indictable offence, and so on.

The CHAIRMAN: Order! The members for Stuart, Mount Gambier and Goyder, it is hard to hear the member for Bragg.

Ms CHAPMAN: The Ombudsman is not a member of the Public Service, and so the position of ombudsman is quite a unique and important role in the job of surveillance of the Public Service—and now to be agencies also—and to be available as an important reporting process to the parliament and to have an audit role administratively as proposed under this bill. None of those functions or proposed functions show any light as to why the use of the word in its process should be exclusive only to the person appointed under this act. I do not recall anything in the second reading speech as to the exclusivity requirement on this and I ask the Premier to identify if there is any body or bodies to his knowledge which have attempted to use this word in a process to which he or any other person has taken offence and thereby requiring this legislative protection and use of the word 'ombudsman' only for the government's process and exclusively for this purpose.

The Hon. M.D. RANN: I am sure the honourable member would be aware that the word 'ombudsman' is not an English word but a Scandinavian word and, from my knowledge of Scandinavian it would not be Finnish, Danish or Norwegian but could well be Swedish. However, it has slipped into the language as a common English word in the sense that people now understand it. The concept, as well as the word related to ombudsman, was borrowed from Sweden where they had an ombudsman. I understand that a couple of universities interstate have tried, even though they are covered by the state ombudsman, to have their own internal ombudsman. I understand that one university in this state was considering it, but I think did not proceed with it. It has been suggested that the act should not prevent people from using the word 'ombudsman' in respect of an organisation's internal review process as the word 'ombudsman' is a common English word.

The ombudsman and the act should be amended to refer to the state Ombudsman, as has been suggested. The restriction has been included at the suggestion of the Ombudsman himself. I want all members to register that. We are trying to work in a consultative way with the Auditor-General and the Ombudsman. We do not want to devalue the coinage of the Ombudsman and the restriction has been included upon the suggestion of the state Ombudsman. It is in response to a move by some agencies to set up an internal complaint handling mechanism that includes the word 'ombudsman' in their title.

The Ombudsman is concerned that this could create unnecessary confusion and be misleading to the consumer. An argument against this is that the term 'ombudsman' is an English word—which it is not—and should not be exclusive to the state Ombudsman. However, use of the term is not being proscribed generally. The prohibition will only apply to the use of the term by agencies to which the Ombudsman Act applies.

We are not talking about the electricity ombudsman, the health ombudsman, the banking ombudsman or the telecommunications ombudsman. It is just so that there is no confusion when people know they have a right to go to the Ombudsman that they know they are referring to the state Ombudsman. It is not intended that the provision would stop agencies from referring complaints to the Ombudsman or providing the Ombudsman's contact details in literature.

Ms CHAPMAN: I thank the Premier for that explanation, but it still has not identified whether there are any agencies. I appreciate that he has indicated that this amendment has been made necessary as a result of some concern on behalf of the current Ombudsman and not wishing to devalue that position. However, from what the Premier has said I still do not understand who has attempted to use it and how that would devalue the group that has been identified—and I understand what we are talking about; we are not talking about the public at large.

The Hon. M.D. RANN: We understand that one university (I do not know which one), seeing what was happening in other states, was considering setting up its own ombudsman. Of course, the Ombudsman covers that area, and the concern is that people might be misled into thinking that, for anything to do with the university, you must go to the university ombudsman and not to the state Ombudsman. So, in fact, it might be a way for agencies that are covered by the purview of the Ombudsman to say, 'We have our own ombudsman; do not go to the real one.' I think that is the concern. Therefore, it makes it murky, it clouds the issue and it also means that everyone knows when the word 'Ombudsman' is used that they are referring to the state Ombudsman and not something which is a bit bodgie and which has been set up to fool people that, if they go there, all is well.

Clause passed.

Title passed.

Bill reported with an amendment.

Bill read a third time and passed.

PRICES (PROHIBITION ON RETURN OF UNSOLD BREAD) AMENDMENT BILL

The Legislative Council agreed to the bill without any amendment.

CONSTITUTION (PARLIAMENTARY SECRETARIES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 11 July. Page 751.)

Ms CHAPMAN (Bragg): Being a new member to the parliament, I must say that this bill puzzled me somewhat, and I cannot say that there was a significant amount of illumination as to its purpose when I listened intently to the one sentence which the Premier uttered in the second reading explanation and which included that the explanation be inserted in *Hansard*. However, when I read the explanation I noted that, apart from a description as to the necessary process that needs to be undertaken to amend the Constitution Act to facilitate the appointment of a parliamentary secretary other than one to the Premier, this is a necessary process, that is, there needs to be legislative reform through the parliament. In part, the explanation states:

> The government believes that there would be benefits in allowing for the appointment of one additional parliamentary secretary.

Perhaps the Premier will illuminate those benefits in his second reaching speech, but I am struggling to appreciate what they may be.

To assist me in identifying perhaps what parliamentary secretaries do, or what their purpose is, and whether there was a need for this further appointment, I did happen to peruse the *Hansard* of December 1997, which covered in another house the Statutes Amendment (Ministers of the Crown) Bill, and which, members might recall, canvassed a number of matters, including the appointment of what is otherwise known as junior ministers and one parliamentary secretary, that parliamentary secretary being a person who is a parliamentary secretary to the Premier. It appears that that position was deemed necessary and, secondly, and importantly—and I note it was allocated to the Hon. Julian Stefani—that it was a position which took into account his specific assistance to the then Premier in undertaking the multicultural functions.

Members may well recall that in the previous government, and indeed for some years, the very important role of the Minister for Multicultural Affairs was attached to the Premier and, indeed, acknowledged that it was a position that was of such importance to the previous administration that it ought be attached to the Premier. That appeared to be the initial purpose. I understand that the Hon. Julian Stefani did not take up that position and, indeed, ultimately it was allocated to a former member, Mr Steve Condous. The then opposition of the day raised some complaint about the appointment both of the junior ministers and the parliamentary secretary. There seemed to be some issue about the fact that this would impose an extra expense and, in particular, provide a 20 per cent pay increase to the person who undertook the position as parliamentary secretary, and that would add some burden.

There was also an issue about the accountability of a parliamentary secretary to the parliament as distinct from someone who was a minister of the crown. The Hon. Carolyn Pickles in another place in particular raised concerns which had been raised by the Auditor-General when he had made observations and to which the honourable member referred when she said:

> Having regard to the need to avoid conflict of interests arising for members of parliament in relation to the expenditure and scrutiny of expenditure [I am concerned] that parliament give consideration to regularising the appointment and functions of parliamentary secretaries through the passage of legislation.

The Hon. Ms Pickles called upon the then attorney to respond to that. It is also fair to say that the opposition was somewhat critical of the lack or apparent lack of job description that was attached to this position when, as I have indicated, it was a circumstance that had been identified as one to support the then premier in the important role of multicultural affairs. Notwithstanding that very specific role, the opposition was quite vigilant in its concern about the lack of job specification.

I raise those matters because I remain somewhat puzzled as to the purpose of a second parliamentary secretary. In this case, the amendments propose that the parliamentary secretary be appointed or have the capacity to be appointed to a minister, and the amendments prescribe that the Governor may appoint a member of parliament as parliamentary secretary to the Premier or a member of parliament as parliamentary secretary to a minister, with the restriction that the number of parliamentary secretaries must not exceed two. I am not quite sure whether there can be two parliamentary secretaries to two different ministers, and then the Premier does not get one, or one to the Premier and one to a minister, and it seems that the situation is not clear.

Most outstandingly obvious in this debate to date is that we have no indication as to why this second parliamentary secretary is necessary, particularly when there has been no identified portfolio or minister to which this parliamentary secretary is to be attached and what duties it is proposed she undertake. The opposition has raised quite serious and legitimate concerns. The absence of any description on appointing a second parliamentary secretary is somewhat stark in its reality as to why that would not be provided as an explanation to this bill and, before we proceed to the expenditure on that, whilst of course I accept that it is the prerogative of the government to organise the way that it wishes to govern to a certain degree, there is a direct cost associated with the appointment of parliamentary secretaries. There does not appear to be any provision in here for relief from that, so it is incumbent upon this parliament to respon-

sibly inquire of the government as to the purpose and role of this parliamentary secretary, and I ask the Premier to do so in his reply.

The Hon. W.A. MATTHEW (Bright): I support this bill simply because I respect the government's right to put through legislation to formulate the construct of its government as it sees fit. I advocate in so doing that the Premier could have been a little more flexible because this bill enables him to appoint an additional parliamentary secretary. The existing act enables the appointment of one secretary. The Premier seeks to increase the number of parliamentary secretaries to two by inserting a clause that provides that the number of parliamentary secretaries must not exceed two. I do not believe that a finite number needed to be put on that and he could have left it open and, if he wanted to appoint three or four, so be it.

In placing a limitation in the bill, I will say that at least the Premier and his government are being honest with their intent to appoint two, but that is as far as the honesty goes with this bill, for it could have been given a variety of titles and written up in a different way. The second reading explanation states:

> The government believes there would be benefits in allowing for the appointment of one additional parliamentary secretary.

What are those benefits? The bill is silent on that. The bill could have been called the 'Give Carmel Zollo a 20 per cent Pay Increase Bill' or it could have been the 'Ease Factional Tensions in the ALP Bill'. It could have been given a variety of names that were more open and honest, and the second reading explanation could have been more open and honest, but one needs to look at what occurred within the structure of government to ascertain why this bill is necessary.

I thought that the second reading explanation could have justified the additional appointment and the reasons for it, not stating simply that the government believes it is necessary. The appointment of Carmel Zollo in another place has already been announced. That particular appointee is presently Government Whip in the upper house and also the chair of the Legislative Review Committee. As Government Whip she has a 10 per cent addition to salary and, as chair of the Legislative Review Committee, another 14 per cent. With this 20 per cent, that member receives an extra 44 per cent in salary. Mr Deputy Speaker, I am aware that your additional salary is 37.5 per cent, so for her efforts, the Hon. Carmel Zollo will be remunerated to a greater extent than the Deputy Speaker of this house.

That is more what this bill is about because upper house members of the Labor Party perhaps feel somewhat slighted by the structure of government because this is the first government for some time where there have been only two ministers in the upper house. My colleagues know that I support that. A number of my colleagues were aggravated by that, but I support the proposition that there should not be any ministers in the upper house, but the fact that there are only two in the upper house is a move in the right direction. However, I have no doubt that that has created some internal friction within the Labor Party, and the Hon. Carmel Zollo might have had a reasonable expectation of being that third minister, so this is her second place reward, as we in opposition see it.

There could have been three ministers in the upper house but that would have given the Premier a dilemma because the Labor caucus votes for ministry positions, and there was one preordained minister from the lower house in the Labor government, and that was the member for Adelaide, preordained before her election to parliament by the Premier himself. The member for Adelaide owes her position in the cabinet to the Premier. She would not be there if it were not for him and I am sure that she is well aware of that. The Premier ensured that she got her position, but to do that he needed to wangle a position from somewhere, and I have no doubt that the other nine ministers from the lower house who would have had the numbers would have told the Premier that they were not prepared to sacrifice their seat for her, so the Premier managed to whisk it away from the upper house and came up with a consolation prize for the Hon. Carmel Zollo.

She now becomes Chair of the Legislative Review Committee, the Government Whip in the upper house and, on top of that, parliamentary secretary. It was not a bad ploy by the Premier, and I am sure it has helped ease the internal tensions within his party, but I would be content with this bill not specifying the number of parliamentary secretaries because I respect the right of any government to determine its construct. I just wish that the second reading speech had been more open, honest and accountable and I find it somewhat of an irony that the debate on this bill has followed the debate tonight on two other bills that dealt with honesty and accountability in government. Let us have a bit of honesty and accountability with this bill. I would like to hear the Premier put forward the real reasons for this measure. There is no doubt that this is a consolation prize for the Hon. Carmel Zollo.

Mr McEWEN (Mount Gambier): Why would someone who supported 10 ministers and five junior ministers not have this debate then than have it now? It is important that, in seeking a satisfactory future, we are mindful of the past.

The Hon. M.D. RANN (Premier): I thank all members for their contributions, which I thought were valuable. The government has announced the appointment of two parliamentary secretaries, one being the member for Wright as parliamentary secretary to me in my role as Premier. Members would be aware that I have also taken on the position of Minister for Economic Development, Minister for the Arts and Minister for Volunteers. I have asked the member for Wright, in her role as parliamentary secretary, to do several tasks. One of them is to take special responsibility for the arrangements and relationships with the volunteer sector.

Indeed, I have asked the member for Wright to leave the process of negotiations for a historic compact between the government and the volunteer sector. Members would be aware that there are 3 000 volunteer organisations in South Australia. I think we have the highest volunteer participation of any state in the nation, at some 400 000. We are trying to negotiate an agreement—a compact—between the government and the volunteer agencies. For instance (and I think members would want to hear this), the previous government was writing contracts when it was handing over cheques saying in effect that you could have the money but that if you received it you could not criticise the government.

We are trying to recognise the independence of volunteer organisations, including their right to criticise the government. So, I have asked the member for Wright in her role of parliamentary secretary to have broad responsibility over the area of volunteers, particularly in negotiating the compact between the government and the 3 000 volunteer organisations in this state. It is a huge task. In Britain it took much longer, and in Western Australia it took two years; I have

given the member for Wright responsibility to achieve those objectives within one year.

Ms Rankine: In Canada it was managed by a team of ministers.

The Hon. M.D. RANN: In Canada it was done by a team of ministers. The member for Wright is also assisting the Minister for Health in a range of matters by way of her role as parliamentary secretary to me. The Hon. Carmel Zollo MLC has been designated parliamentary secretary to the Minister for Agriculture, Food and Fisheries. There are two ministers in the upper house, and we believe it is more than appropriate, given that the Hon. Paul Holloway is Leader of the Government in the upper house as well as Minister for Agriculture, Food and Fisheries, that he be given the assistance of a parliamentary secretary. We have already appointed the member for Wright as a parliamentary secretary under the present section 67A of the Constitution Act 1934. As it presently stands, section 67A authorises the appointment of only one parliamentary secretary. However, to meet the practical workload demands of the Minister for Agriculture, Food and Fisheries, the government has designated one other member of parliament, the Hon. Carmel Zollo, as parliamentary secretary to that minister.

Of course, no payment, remuneration or allowance can attach to such a designation, otherwise it would be an office of profit from the Crown and come within the prohibition of section 65 of the Constitution Act. The government is amending the Constitution Act because section 67A presently provides for the appointment of only one parliamentary secretary, that is, the parliamentary secretary to the Premier. The government is moving amendments to the Constitution Act to provide for the appointment of one other paid parliamentary secretary to a minister so that there can be no problem in terms of taking an office of profit under the Crown. We are proposing some flexibility in the arrangement, and that is why the amendment provides that a parliamentary secretary to a minister includes in its meaning one of the other ministerial offices held by the Premier.

The amendment will put beyond doubt the appropriateness of these sorts of appointments. We are mindful of the criticisms that the Auditor-General has had about such appointments in the past. As a practical matter, the amendments will also allow for both the secretaries to be paid without incurring the potential disqualification of members who accept an office of profit from the Crown. This is only fair and reasonable. Payment acknowledges the considerable extra time and effort put in by the parliamentary secretaries. The rate for a parliamentary secretary is 20 per cent of the base salary of a member of parliament.

There will not be a proliferation of parliamentary secretaries. Subsection (2) of proposed new subsection 67A provides that the number of parliamentary secretaries will not exceed two. There are consequential amendments to the Parliamentary Remuneration Act 1990 and to the Oaths Act 1936. Both parliamentary secretaries will take the oath of allegiance and the official oath.

I think I have clarified that position at length. I should say that the member for Bright asked whether the Hon. Carmel Zollo MLC would be receiving payments in her role as Whip and chair of a committee, plus the extra payment in respect of being a parliamentary secretary if this legislation is approved. I can assure the house that there is absolutely no intention that the Hon. Carmel Zollo should receive payments for all those functions. So, she will be parliamentary secretary to the Minister for Agriculture, Food and Fisheries, but it is not intended that she receive payment for all those positions. I may have unintentionally misled the house in relation to parliamentary secretaries who do not take the oath; I read it the other way around.

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

ADJOURNMENT DEBATE

The Hon. M.D. RANN (Premier): I move:

That the house do now adjourn.

Mr MEIER (Goyder): As members here know, the life of a member of parliament is never idle or slack, and weekends are usually amongst the busiest days of the week. I want to report on a couple of things that occurred last weekend, the first being the Lions changeover at Mallala. My wife, Ruth, and I were privileged to attend the Mallala and District Lions Club yesterday, and I pay a compliment to all the members there. It is one of the many Lions clubs that operate in this state and throughout the world.

In my address to that Lions Club, giving the toast to Lions International, I pointed out that we in Australia live in a very lucky country. If we think about what is going on in the rest of the world, we realise some of the tragedies that are occurring. I pointed out the flooding situation on the Yangtze River and how, if the lake there should burst, tens of millions of people could perish. One report that I heard was that up to 40 million people could perish. We think of the population of Australia, namely, fewer than 20 million. So, double the population of Australia could perish if one dam were to break. It appears from news reports that that will be averted. Thank goodness; we can give real thanks for that. Or, we can think of a country such as Zimbabwe, which used to be the grain capital of Africa and provided so much of its food.

It was the mainstay country in economic terms in Africa. Today it is the lowest in economic terms in Africa due to the policies of the present government. One must feel not only for the farmers in Zimbabwe who have been forced off their land without any compensation at all, but equally for the many people in Zimbabwe who are suffering from starvation. It is a real tragedy and, being a former commonwealth country, it certainly affects us here in Australia, as it is a country to which we can relate more closely than we can to many other countries. Zimbabwe used to have the same parliamentary traditions that we have. How tragic it is that, because of the policies of basically one person, the country can go from the top one on the continent to the bottom one.

We can also think of the situation in the Middle East. I highlighted how the conflict between Israel and its Palestinian neighbours seems to go on for year after year, decade after decade. It was interesting that about 15 years ago I had a certain television program videotaped. I watched it in recent months, and before it came on the news headlines which had also been taped indicated that there would be renewed conflict between Israel and Pakistan. I thought that nothing had changed in more than 15 years. Again we can be so thankful that we live in a relatively peaceful country. Or we can think of the situation precipitated by the 11 September terrorist attacks in America. It has been reflected to a lesser extent in other parts of the world, both before and after 11 September. Whilst we are subject to such terrorist attacks, we have been relatively free from them. Again we can be so thankful for the country in which we live.

As I pointed out in my speech to the Lions Club of Mallala and Districts, it would be so easy for the various Lions clubs and more than a million members throughout the world to say, 'Enough is enough. With so much chaos going on in the world, let's forget about helping our fellow man and woman', because the Lions Club motto is, 'We serve'. I said to the Mallala club, as I say to all Lions clubs, 'Thank you for continuing to serve. You do a wonderful job.' I would echo those comments to other service clubs, such as Rotary and Apex. It is always a pleasure to attend meetings of Lions, Apex and Rotary, particularly at their changeovers, and meet so many wonderful volunteers.

I also want to highlight the fact that on Sunday 18 August I attended a special Long Tan Day service at the Bublicowie Military Museum. I think I have mentioned that museum in this house before today. It is a place not that well known, halfway between Minlaton and Yorketown, but it is becoming increasingly known. Certainly the proprietors, Mr Chris and Mrs Enid Soar, are to be given special commendation for what they have done to the old Bublacowie school. They have built it into a fine museum, and it has grown from strength to strength.

I say to anyone visiting Yorke Peninsula: make sure that you take a slight detour on a dirt road between Minlaton and Yorketown and look at the military museum. It is a credit to the whole of Australia, not just South Australia. I wanted to thank Chris and Enid very sincerely. On this last occasion, it was wonderful to see a large number of Vietnamese men and women who had come over to join in the celebration. Chris has taken on one more challenge, that of Operation Christmas Child. Operation Christmas Child is one of the programs in response to the millions of children world wide suffering because of war, natural disaster, poverty, illness or neglect. I want to again thank Chris and Enid Soar for their dedication in providing so much for the less fortunate and the less well off.

Finally, I wanted to compliment the organisers of the 132nd Kadina show, which was held on Saturday 17 and Sunday 18 August. Again, Ruth and I were pleased to be able to attend. I extend my thanks to President Heather Chappell, Secretary Ruth Mildwaters and members of the committee. These days it is a two-day show at Kadina, and it has continued to grow. It was great to see the way the local community had got behind the show to make sure that once again it was a success. This year the weather was excellent from the point of view of being out and about, although we could well do with rain.

In fact, that brings me to the last function, namely, the Nos 4 and 5 Districts Rifle Clubs Association, of which I am patron and which I attended yesterday at the rifle range north of Balaklava. The rifle shooting day was a great success, and I compliment all those who won trophies and prizes. They came from as far afield as Port Augusta, Port Pirie, the Barossa Valley, Adelaide Hills, Adelaide, Yorke Peninsula and Balaklava. However, it is rather tragic to see some of the crops in that area, which looked reasonable on Friday and early Saturday morning, but by the end of Sunday, because of the frost and dryness, they were starting to dry off or were withering to some extent. There is a potential disaster in our rural areas due to the lack of rain, and we just hope and pray that rains come within the next few days to stave off what could be a very bad drought throughout this state.

Mr O'BRIEN (Napier): I bring before the house a matter of grave injustice, caused in small part by a deficiency in legislation enacted by this parliament and in far larger part by the actions of an insurance company hell-bent on pursuing that legislative deficiency, irrespective of the disastrous consequences for the family caught in the legal crossfire. I refer to the plight of my constituents Mr and Mrs Mihailoff of Craigmore who, in the course of pursuing a just claim of $11 658 for rectification of shoddy building work on their home, have been forced by Royal and Sun Alliance Insurance into a legal bill of $33 144.

In the course of extending their home to cope with their growing family of five children, and in seeking to have the shoddy work associated with that building extension made good, Mr and Mrs Mihailoff now stand to lose that home. The reason for that is that the insurance company, Royal and Sun Alliance, is using the Mihailoffs' claim as a test case, and have taken this struggling couple through to the full bench of the Supreme Court to exploit a legislative oversight in the Building Work Contractors Act 1995, and in doing so have established a legal precedent for future cases of this nature.

The Mihailoffs have been exemplary citizens in the way they have pursued their claim for the making good of shoddy building work on the extension to their home. Mr and Mrs Mihailoff first referred the matter to the Office of Consumer and Business Affairs, but the office was unable to resolve the complaint with the trader, Ash Home Improvements. In line with the requirements of their HIA building contract, the Mihailoffs then referred the matter to arbitration. The arbitrator, after a full day hearing, awarded the Mihailoffs the sum of $11 658 plus costs of $5 721.

In the normal course of events, this would have been the end of the matter. However, shortly after the decision of the arbitrator, Ash Home Improvements Pty Ltd declared itself insolvent. A claim was then lodged by the Mihailoffs against the insurer under their Housing Industry Association home owners warranty policy, the insurers being Royal and Sun Alliance. The policy states that the insurer will make good the loss suffered by the homeowner as a result of:

> . . . your inability to enforce or recover under a statutory warranty in respect of the building work because of the insolvency, death or disappearance of the builder.

Royal and Sun Alliance refused to pay the claim on the grounds that legal and other costs were not covered by the policy and the matter was referred to the Magistrates Court for resolution. On 22 May 2001, Mr L.W.A. Myers SM ruled in the Mihailoffs' favour on the basis of the wording of the policy to which I have referred. Royal and Sun Alliance appealed the matter and on 2 August 2001 Justice Lander again ruled in favour of the Mihailoffs in the Supreme Court. Justice Lander stated that the magistrate was correct in his reliance on the wording of the insurance policy to which I have referred. He also referred to further wording in the policy which stated that the insurance company could:

> . . . conduct or take over any legal action in connection with any claim.

Not unreasonably, Justice Lander concluded from this wording that if the insurance company reserved for itself the right to take over any legal action taken by the insured, then, and I quote from Justice Lander's decision:

> If the insurer were to conduct or to take over a legislation relating to a statutory warranty it would thereby meet the costs of the insured. That suggests that the policy contemplates that the insured's costs in enforcing the statutory warranty will be met.

Again, Royal and Sun Alliance appealed. The Mihailoffs were now well and truly on the legal system treadmill. With every appeal legal fees could not be finally allocated and with

every appeal legal fees were escalating. Christopher Swan, solicitor acting for the Mihailoffs, has stated that the legal team acting for Royal and Sun Alliance were pursuing the matter as a test case, and stated as much.

No thought was given by Royal and Sun Alliance to the fact that Mr Mihailoff had been involved in an industrial accident, had suffered damage to an eye and that his ability to secure stable, long-term employment was extremely problematic. No thought was given to the fact that the Mihailoffs had five children and limited financial resources to fall back on. No thought was given to the fact that the legal course of action it was now dragging the Mihailoffs through could result in them losing their home—the very asset the Mihailoffs sought to protect through their relationship with Royal and Sun Alliance.

The final appeal by Royal and Sun Alliance was heard by the Full Court of the Supreme Court of South Australia and, in handing down its judgment on 16 April this year, Justice Gray said that at issue was the construction of an insurance policy entered into pursuant to the Building Work Contractors Act 1995 and, in particular, whether the definition of 'loss' under the insurance policy was wide enough to include legal costs incurred by an insured in proceedings against a builder.

Justice Gray said that the relevant sections of the act were silent in respect of costs and that a narrow interpretation of 'loss' as being restricted to the cost of rectifying building work was consistent with the legislative scheme. Justice Gray said that one of the aims of the act was to minimise the number of building disputes that proceeded to court and that another evident purpose was to provide a level of consumer protection. However, according to Justice Gray, the second reading speech does not suggest that such protection would extend to provide indemnity to insured parties for legal costs.

Having read the second reading speech of the Hon. S.J. Baker on the Building Work Contractors Bill on Tuesday 21 November 1995, I too can find no mention of insurance companies being expected to pick up the legal costs of those insured. However, this is not the intent of the act but simply an oversight in considering the circumstances where insolvency of a builder occurs after legal action has commenced and before the insurance company has been involved. I say this is an oversight because the Hon. S.J. Baker specifically referred to the high cost of litigation and the purpose of the act in addressing this issue when he said:

> Invariably, young people spend all the money they have on building their house. They do not have the thousands of dollars for litigation and, therefore, it is normal that these young people simply do not have the means, wherewithal or even the inclination to fight a dirty battle through the courts. So, the situation has been unsatisfactory.

The Deputy Premier recognised the problem of legal costs, but only in such a general manner as to be unable to offer guidance to the justices of the Supreme Court sitting on final appeal in the Mihailoff case.

It is my hope that the Attorney-General will take up the matter of this specific inadequacy of the Building Work Contractors Act 1995 so that insurance companies will not be able to exploit the precedent created by the Mihailoff case. Specifically, I hope that the Attorney-General will act so as to prevent insurance companies from denying their policy-holders reimbursement for expenses incurred in following the clear course of action prescribed by this parliament for homeowners seeking to obtain the making good of poor building work.

The Mihailoffs now stand as a family on the edge of a financial precipice. They are in debt to the amount of $33 144 in unpaid legal fees. The home that they sought to make good for their five children now stands to be lost to them and all because the insurance company, Royal and Sun Alliance, sought to use this hapless couple as a trial case as a setter of legal precedent. This evening I make one simple request of Royal and Sun Alliance: exhibit a modicum of human decency, save a family further anguish and despair and pay the legal fees of the Mihailoffs.

Motion carried.

PARLIAMENTARY SECRETARIES

The Hon. M.D. RANN (Premier): I seek leave to make a personal explanation.

Leave granted.

The Hon. M.D. RANN: I wish to further clarify a comment I made a few moments ago in debate on the Constitution (Parliamentary Secretaries) Amendment Bill in relation to taking oaths. The correct position is that both parliamentary secretaries must, as soon as is practicable after accepting office, take the official oath before the Governor. To clarify this, it is not necessary for them to take the oath of allegiance because they have already done so. I am proposing that both parliamentary secretaries, the member for Wright and the Hon. Carmel Zollo MLC, should take the oath on the same day before the Governor after the passage of the legislation, if it so passes, and after the act becomes law.

ADJOURNMENT

At 9.08 p.m. the house adjourned until Tuesday 27 August at 2 p.m.