HOUSE OF ASSEMBLY

Wednesday 28 August 2002

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

CROWN LANDS (MISCELLANEOUS) AMENDMENT BILL

A petition signed by 1 461 residents of South Australia, requesting the house to urge the government to withdraw the Crown Lands (Miscellaneous) Amendment Bill 2002, was presented by Mrs Maywald.

Petition received.

VOLUNTARY EUTHANASIA

A petition signed by 60 residents of South Australia, requesting the house to reject voluntary euthanasia legislation, ensure medical staff in hospitals receive proper palliative care training and provide adequate funding for the palliative care of terminally ill patients, was presented by Mrs Maywald.

Petition received.

PAPERS TABLED

The following papers were laid on the table:

By the Treasurer (Hon. K.O. Foley)—

Correction to Budget Paper 3—Budget Statement 2002-03, Net Worth and Net Financial Worth of the General Government Sector

By the Minister for Urban Development and Planning (Hon. J.W. Weatherill)—

Development Act—Development Plan Amendments—
City of Playford—Heritage Plan Amendment Report
City of Port Lincoln—Format and Policy Review Plan Amendment Report
Wind Farms Plan Amendment Report
By-Laws under the following Local Government Act—
District Council of the Copper Coast—
No. 1—Permits and Penalties
No. 2—Boat Ramp.

SCHOOLS, SECURITY

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

Leave granted.

The Hon. M.D. RANN: There would not be a single South Australian who would not have been appalled and horrified at yesterday's vicious armed robbery at the school canteen at Salisbury North West Primary School. A young mother was forced to abandon her three month old baby as she followed a desperate robber's orders. It is fortunate that no-one was injured in the robbery, but it is a sad indictment that incidents such as this occur in our schools and it confirms that we must rethink security in our schools.

I commend the school for its quick reaction in ensuring the safety of the students and staff whilst waiting for the police to arrive. I understand that the Department of Education and Children's Services sent a counsellor and a specialist security inspector to the school. Both the Minister for Education and I visited the school this morning and met with the Principal, Geoff Creek; one of the victims, Danielle Kirby; and another member of the canteen staff. The school is located in the electorate of the Minister for Education and Children's Services and it is adjacent to my own. Traditionally, the focus has been on after-hours school security. However, the government will toughen penalties against those who commit assaults against teachers and children, as well as the elderly, who are more vulnerable. My government wants those convicted of attacking school staff and schoolchildren to serve extra time. I also want our schools to be safe havens for our children. The government will also be introducing legislation to give schools greater powers to evict and ban from schools people who threaten the safety of staff and students. I can now announce that this government has plans to go even further.

We are increasing spending on school security by $4 million over the next four years, and the government is about to give final approval to a new package of safety and security measures which will ensure that our schools are safer places for our children, teachers and school staff.

Targeting high-risk schools, the government will look at installing duress alarms in areas where staff can hit a button and summon help immediately in case of an emergency, be it in a school canteen, a classroom or the administration office. There will also be upgraded security measures, including extra lighting, fencing and security cameras; and we will be auditing all schools to assess their security needs.

I am sure that this comprehensive package, including the legislation to increase the powers of principals to ban or evict trouble makers from schools, and tougher crime legislation that will involve higher penalties for those who attack teachers or schoolchildren, will attract the strong bipartisan support of members opposite. Thankfully, attacks like yesterday's are still a rare thing in our community and, thankfully, too, none of the children at Salisbury North West Primary School witnessed this incident.

Finally, I appeal to anyone who has any information whatsoever about the attack or the identity of the assailant to contact the police immediately.

DROUGHT

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

Leave granted.

The Hon. M.D. RANN: In the past six months, rainfall in South Australia has been 60 to 80 per cent below the 30 year average across a large area of our state. There are many farms in South Australia, principally in the Murray-Mallee and in the north-east pastoral district, that have been severely hit by the drought. But, of course—

Members interjecting:

The Hon. M.D. RANN: I hope that members opposite will treat this matter seriously. But, of course, there are other districts, such as the Upper North cropping district, the east coast of the Eyre Peninsula, the Far West Coast and pockets of the Upper South-East that are, at this critical end of the growing season, struggling to keep their crops alive and their stock fed and watered.

I have been told that some crops in the northern Mallee have already died off. This not only affects our level of exports and the financial viability of farms and farm families, but it also has a ripple effect on the supply of feed for stock, the availability of adequate grazing land and the harvest of seed for next year's sowing.

This morning, the Adverse Seasonal Conditions Committee met to review our current situation. That meeting was told

that the July crop harvest forecast has been revised downwards by about 300 000 tonnes, and that the August crop harvest forecast, due early next week, will also, very likely, be revised downwards.

The committee, which is made up of various government agencies and the SA Farmers Federation, meets only when our weather conditions begin having a major impact on farms. This morning's meeting was the second of the season. The meeting was also told that the Bureau of Meteorology is forecasting that during the next three months there is a greater than 60 per cent chance that most of our agricultural and pastoral areas will receive less than their normal rainfall.

The Bureau of Meteorology's 10-day outlook is for mainly fine conditions. In other words, the forecast at this stage does not bode well for our farmers. I hope, for once, that the forecasters have got it wrong. In the next few weeks, I intend to tour some of the drought-affected farms in South Australia—and I will invite the South Australian Farmers Federation to join me. I want to see for myself what effect the severe lack of rainfall has had on farms and regional areas generally. I want to ensure that everything that this government can do for our farmers affected by drought is done. As Premier, I want to talk directly to the farmers and find out from them what I can do to help their plight now and into the future. If it means asking the Prime Minister for help, then I will do so. As we are all aware, in Australia drought relief is primarily a federal responsibility.

While eastern state farmers are well represented by powerful lobby groups and federal government members who are a part of the ruling Coalition, I think it is important for me (and I am sure with the strong support of the Leader of the Opposition) to remind the Prime Minister that there are more farmers in this country than those who hug the eastern seaboard. This latest drought unfortunately has become a national issue and needs to be dealt with nationally. To qualify for exceptional circumstances assistance, an assessment of the severity, scale, financial impact and natural resource impact are made by the National Rural Advisory Council, which then makes a recommendation to the relevant federal minister.

If the council recommends someone for assistance, it must then be agreed upon by the minister, and then the minister seeks approval from the federal cabinet. I will be letting the federal Howard government know that we want to see a level playing field in terms of any assistance to farmers in this state during this period of drought. In South Australia, the state government, through Primary Industries and Resources SA, has worked in partnership with the South Australian Farmers Federation to provide some relief to farmers affected by the lack of rain.

The Minister for Primary Industries outlined last week in parliament the measures taken to extend this relief to farmers. They include the establishment of seed, agistment and fodder registers, which will provide farmers with an easy to access list of suppliers and grazing areas where they can agist animals and source quality feed and seed until conditions improve.

I appeal to members to treat this serious situation in a serious way rather than play politics with it. A special web site and hotline are being set up to provide farmers with ready access to a database of the information they will need. The hotline number is 1800-999-029; and it is being staffed by Primary Industries officials between 9 a.m. and 5 p.m. with a message service for after hours calls. The web site will be in place shortly. As a service to farmers, the staff of Primary Industries and the South Australian Farmers Federation will be working with the *Stock Journal* to provide regular advice to people experiencing dry conditions.

South Australia is not yet facing a major disaster this season from the dry conditions and, if the forecasters are wrong and we get abundant spring rains, we may still be able to achieve average crop harvests. But I want to assure South Australians that this government is aware of the problems being experienced at present and we are ready to help wherever and whenever we can, hopefully with bipartisan support.

TAFE FINANCES

The Hon. J.D. LOMAX-SMITH (Minister for Employment, Training and Further Education): I seek leave to make a ministerial statement.

Leave granted.

The Hon. J.D. LOMAX-SMITH: Last week I announced the appointment of Peter Kirby to lead a major examination of the way our TAFE institutes are being managed. I did so because it has become apparent to me, in the time that I have been minister, that there are significant problems that must be addressed. In saying that, however, I wish to emphasise that my criticisms are not directed at the quality of training provided by the TAFEs or actions of individual staff and members of the boards of institutes.

I am, however, highly critical of the previous Liberal government's decision to corporatise the institutes and the disastrous impact that this has had on the effective management of our TAFE system. Nowhere is this evidence more apparent than in the current financial condition of the TAFE system. Today I will provide the house with further information on the parlous state of its finances. I have previously referred to the work of Treasury in its financial review of the department.

Members interjecting:

The SPEAKER: Order! If the member for Unley and the member for Goyder want to have a conversation, they should do so in terms which do not interrupt the leave the house has been provided with: may they forthwith consider themselves warned.

The Hon. J.D. LOMAX-SMITH: The broad picture that is beginning to emerge from that work is one of significant failings in financial and budgetary management that stem from weaknesses in the approach taken by the former minister and the department to the management of the TAFE system. The approach of the last government encouraged competition between institutes and lacked essential aspects of accountability by them. The institutes were left largely on their own to manage their budgets with no real oversight of their total budgetary and financial condition. There has been no financial performance framework for institutes, and little or no attention has been given to their performance as a system.

What are the results of this flawed approach? In financial terms there are two significant, and in my view worrying, indicators. These are the size of the operating deficit and the cash reserves depletion. First, in the year to 31 December 2000 the TAFE system recorded an operating deficit of $580 000. In 2001 the operating deficit had increased to $3.7 million and for the year 2002 we face the prospect of another significant deficit, possibly as high as $4 million on present estimates. Secondly, and related to the deficit position, the institutes in recent years have begun to run down

their cash balances. In the year to 31 December 1998 the TAFE institutes had a combined cash balance of $2.8 million. By the end of December 2001, the combined cash balance was a negative figure of $4.7 million. The institutes' position was one of being dependent entirely on the department to ensure their cash requirements were met—a position that cannot be permitted to continue.

Clearly these figures show a financial position for the institutes that is simply not sustainable unless changes are made, and they must be. I also make the point that one of the problems we have experienced is with the reliability of the financial data available. This too is symptomatic of the way the TAFE finances were not managed by the previous government. It is the case that there was little positive leadership of the further education system by that government. Consequently governance and leadership are a focus of the work being undertaken by Peter Kirby and his team. This will serve to reinforce the existing strengths of the TAFE system and will ensure that a sustainable financial position can be achieved.

The SPEAKER: I say to the minister—and all ministers take note—that ministerial statements are meant to be statements of clear fact without their engaging in debate. The minister's minders need to be reminded of that.

COLES-SDA INDUSTRIAL AGREEMENT

The Hon. I.F. EVANS (Davenport): I seek leave to make a personal explanation.

Leave granted.

The Hon. I.F. EVANS: Yesterday during question time, I referred to what I believed to be the current agreement between Coles and the SDA. I believed the 1996 agreement to be the current agreement because it is the agreement displayed on the OSIRIS web site. Further, prior to my questions and comments yesterday, contact was made with the Australian Industrial Registry in Adelaide and advice was received that this agreement was still current. Following yesterday's comments, more information has come to my attention this morning that a new agreement has been signed, and I am advised that the union's preference clause has basically remained but the possibly anti-competitive clause has been removed.

Members interjecting:

The SPEAKER: Order!

The Hon. I.F. EVANS: On receiving that information this morning, contact was made again with the Australian Industrial Registry Adelaide office, and it advised that the new agreement was registered in May 2002 but is not on the OSIRIS web site. Indeed, hard copies are not available from the Adelaide office and would need to be ordered from Melbourne. Importantly, both the 1996 agreement and the 2002 agreement are registered on its database as current.

QUESTION TIME

HOSPITALS, PRIVATE PATIENTS

The Hon. DEAN BROWN (Deputy Leader of the Opposition): Will the Minister for Health immediately issue clear instructions to all public hospitals on their obligation not to discriminate against patients with private health insurance in light of the fact that the incident at the Royal Adelaide Hospital appears not to have been an isolated case? Last night I was given details of an incident that occurred at the Modbury Hospital on 27 May. At 1.30 a.m. a 36 year old woman was taken to the emergency department with extreme internal body pain. She was examined and assessed until 7.30 a.m. without diagnosis of the possible problem. At 7.30, as she was discharged, she was handed a referral letter from the treating doctor to her GP. She was told to see the GP immediately and to ask the GP to organise a scan of her gall bladder, liver and stomach. The hospital knew that she had private health cover. Her GP immediately organised the scan. The person performing the scan told her:

> The reason why you have been sent out to your GP and to Perretts—

the imaging people—

> for the scan is that you will bear the cost and not the hospital.

She was again admitted by ambulance to the emergency department at Modbury on 8 June and again discharged at 7 a.m. without diagnosis and again told to see her GP if the pain persisted, which it did. Subsequently she was privately diagnosed with toxic chemical poisoning of the liver, obviously a very serious complaint. Again, this patient was discriminated against on the basis of holding private health insurance.

The SPEAKER: Order! If the deputy leader seeks to make explanations in future, they will not contain statements of opinion. The Minister for Health.

The Hon. L. STEVENS (Minister for Health): I would be very pleased to investigate the matter, and I ask the deputy leader to walk across the chamber and hand me the information so that I can investigate it. While I am on my feet, I would like to make some other remarks in relation to matters that the deputy leader raised earlier this week on the same issue.

The SPEAKER: Order! The minister has been asked a question and, if the minister has other information relevant to that question, she may proceed. It seems not, from the remarks she just made. It is not proper for her to engage in debate. Unless I get an assurance from the minister that what she says, if she says anything further, is relevant to the question line, she will not be able to proceed. Standing orders do not allow for the debate of such matters.

The Hon. L. STEVENS: Thank you for your guidance, Mr Speaker. I will be very pleased to investigate the matter that the deputy leader has raised. I would like also to assure the house, as I have on a number of occasions already this week, that discrimination of patients attending public hospitals on the basis of their private health insurance status is not standard practice. I am concerned to hear of this incident. I will be very pleased to investigate it, and I invite the deputy leader to give me the information so that I can do that.

BT FUNDS MANAGEMENT

Mr O'BRIEN (Napier): My question is directed to the Treasurer. Does the Westpac purchase of Bankers' Trust have any impact on the government?

The Hon. K.O. FOLEY (Treasurer): Like many members, I was concerned when I read that the Westpac bank had purchased BT Funds Management because, as many—

Ms Chapman: Why, were you going to buy it?

The Hon. K.O. FOLEY: No, not at all.

An honourable member: Do you have shares in them?

The Hon. K.O. FOLEY: No, not that I can recall. I have no shares in them. As many members opposite would know,

the former government had a number of incentive packages tied to the location of investment in this state relating not just to BT Funds Management but to Westpac and also EDS, and they are all interrelated. What I can say is that Westpac's purchase does have the potential to impact upon a range of back office investment projects at various stages of development, including BT Funds Management's portfolio services' back office operation at Science Park currently employing 285 BT staff.

I am advised that 185 JP Morgan staff are also temporarily located at this centre. Invest SA, a division of the Department of Industry and Trade, as it is at present, will continue to liaise closely with senior representatives of Westpac, BT and JP Morgan as appropriate. The government will seek to ensure that its position under its existing contract with BT Funds Management, with respect to the establishment of a back office facility in 1995, is protected. The government is looking to ensure that the current interconnected contractual negotiations between Westpac and EDS are bedded down.

Whilst it is premature at this stage to suggest that the purchase will have no impact on Westpac's advanced negotiations for tenancy of the former Ansett centre, early indications for Westpac suggest there would appear to be no reason at this stage why the two facilities could not operate side by side on an ongoing basis. I am further advised that Westpac has confirmed with government officers yesterday morning that it remains firmly committed to finalising contractual arrangements with the government with respect to the expansion of its contact centre activities in South Australia.

The government also seeks to protect existing temporary accommodation arrangements in place between BT and JP Morgan Chase and Co both up until December 2002 and beyond this time, in the event that the construction of JP Morgan's facility is delayed (which we hope it will not be) beyond the scheduled completion date. The government is continuing to monitor the situation and will remain in constant contact with Westpac. The government will continue to explore all opportunities to leverage where possible additional investment from Westpac in South Australia.

AUSTRALIAN HEALTH CARE AGREEMENT

The Hon. DEAN BROWN (Deputy Leader of the Opposition): Is the Minister for Health aware of any practices being undertaken in public hospitals which attempt to transfer the costs from the state government to the federal government in contravention of the Australian Health Care Agreement, and if so, what practices are being undertaken and has she had them investigated?

The Hon. L. STEVENS (Minister for Health): I have to say that I am not aware of any specific cases, and I would be very pleased to hear about them if the member has that information. I would like to make the point to the house that this government came into office early this year. The practices that the deputy leader has already spoken about and is alluding to are the results of his time as health minister and as premier before that. If these things are occurring, I am only too pleased to hear about them and deal with them. I invite the deputy leader to join me in a bipartisan way in fixing some of these issues.

HOSPITALS, PRIVATE PATIENTS

Mrs GERAGHTY (Torrens): Will the Minister for Health inform the house of any progress in the matter raised by the member for Finniss on Monday concerning a patient at the RAH allegedly being refused treatment because of their private health insurance status?

The Hon. L. STEVENS (Minister for Health): I am very pleased to provide whatever information I can on the matter that was raised by the deputy leader in this house on Monday about a patient who was alleged to have been refused treatment at the Royal Adelaide Hospital on the basis of his private health insurance status. I have to report to the house that unfortunately the issue is only partially investigated at this stage. I am concerned that this is the case. I have to tell the house that this is so because I finally received the information I was after from the deputy leader only five minutes before the bells rang for today's question time.

I think it would be a very good idea if this house reflected a little on the actions of the deputy leader in relation to this matter. I will recount them. On Monday he raised a very serious matter in this house. I invited him to give me the information, and I said that I would be very pleased to investigate the matter. As those who have been members of this house over time would know, this occurs regularly. Ministers undertake to look into an issue and other members provide them with the information that they require to do that job. I asked for that information. At the end of question time I waited around to get the information but, as we all know, the deputy leader raced out of the house to speak to the media about the issue. I did not receive the information. On Tuesday I still had not received the information, and in fact I rang the deputy leader.

Mr BRINDAL: I rise on a point of order, sir. I think you have consistently ruled that members of this house may not criticise other members other than by way of a substantive motion. In her answer, the minister appears to be criticising the deputy leader, and I ask you to rule on the matter.

The SPEAKER: Order! I think the remarks go to the deputy leader's actions rather than character or conduct. They are directly relevant to the issue that was the subject of a question on Monday. I am sure that clarifies the matter for all members. If it does not, I am happy to explain for them the distinction between their actions in relation to a matter which they have raised as part of their concern for polity as compared to their behaviour as individuals or their private lives or opinion about their character, and so on. The minister.

The Hon. L. STEVENS: As I was saying, I received no information on Monday. On Tuesday, not having received anything in the morning, I rang the deputy leader to seek the information I required to undertake the investigation. At 1 p.m. on Tuesday, I received a name only, and I received an undertaking from the deputy leader to provide me with a letter with two further issues that he said needed to be looked into by the end of yesterday. The end of yesterday came, but there was no information.

I have in good faith undertaken to the house to investigate this very important issue. The federal minister has become involved: she made comments this morning about how serious this matter is, and I agree. In good faith, I have agreed to carry out this investigation, and the federal minister has accepted that I am doing this in good faith. However, I suggest that perhaps the member for Finniss has not acted in good faith because, if he had, he would have provided this

information and allowed it to be investigated, and we would have been able to move on and solve the problem, if it needed to be solved, to our satisfaction. Instead, the member for Finniss chose to grandstand and to hold back information for his own purposes. That has nothing to do with improving the health system in South Australia.

The Hon. DEAN BROWN (Deputy Leader of the Opposition): Will the Minister for Health cooperate with any federal government investigation into possible breaches of the Australian Health Care Agreement involving discrimination against patients with private health cover? The best way to explain my question is to read the second paragraph of my letter to the minister, which states:

I deferred the writing of this letter until I had spoken again to the GP involved who was seeing the patient yesterday. The reason for this is that the GP has been attempting to have the Royal Adelaide Hospital carry out an urgent MRI scan of the patient based on the advice of the radiology specialist who had assessed the CT scan that had been carried out privately. Attempts by the GP to get a satisfactory response from the RAH medical staff again failed. As a consequence, the GP will now be writing to you on the matter, raising not one but now several ongoing concerns.

The SPEAKER: Order! This is wearing. I say to the deputy leader that that is more of a device than a legitimate explanation to enable him to get on the record his view about the matter. It is an expression of opinion and it—not the opinion but the practice—is dodgy. In future, I will not allow members to quote from correspondence of which they are the author in the explanation of a question.

The Hon. L. STEVENS: I will make it clear. As Minister for Health and part of a Rann Labor government that is committed to honesty and accountability in government, of course I will cooperate to ensure that what happens here does not contravene any agreements that we make nationally. However, I would like to make one further point. The deputy leader just quoted from the letter that he gave me five minutes or so ago. I want to make the point again that what we have seen from the deputy leader this week is a drip-feed of information. He has drip fed bits of information to the media each day, and he never intended to reveal the full picture. Instead, he intended to grandstand with maximum mayhem Dean's leadership bid. That has nothing to do with the health of South Australians. That is what we have seen in the house this week—

Members interjecting:

The SPEAKER: Order!

The Hon. L. STEVENS: —and you should be ashamed of yourself!

SNOWY RIVER

Mr HANNA (Mitchell): My question is directed to the Minister for Environment and Conservation. How will South Australia be affected by the implementation of the plan to restore environmental flows to the Snowy River?

The Hon. J.D. HILL (Minister for Environment and Conservation): From today, water from the Snowy hydro-electric scheme is to be diverted into the Snowy River. The action is part of a suite of arrangements developed between the commonwealth, New South Wales and Victorian governments, which in December 2000 collectively signed an agreement to regressively restore the Snowy River. The diversion of water from the Snowy will not impact on South Australia's water entitlements, which have already been guaranteed, for the River Murray this year. However, the above entitlement flow coming into South Australia will be reduced by 38 gigalitres. This water will be made up for in the longer term by the commonwealth's agreement to provide $75 million to produce 70 gigalitres of additional water.

Mr Brindal interjecting:

The Hon. J.D. HILL: I understand that. The Snowy project, although on a much smaller scale than the longer term environmental flows project for the River Murray, demonstrates that, when there is political will, there is also political way—political way to tackle these environmental projects. I say to the house and to the governments of New South Wales and Victoria that, if they can find the political will to find water for the Snowy, they ought to be able to find the same political will to find water for the River Murray.

The arrangements provided that the first releases would be within the first six months of corporatisation of the Snowy scheme, and that corporatisation occurred on 26 June this year. As I have said, the water to be diverted to the Snowy will have no effect on South Australia's entitlement flow of 1 850 gigalitres. Under the terms of the Snowy corporatisation and the recently signed Murray-Darling Basin Agreement Amending Agreement, the Snowy scheme must deliver a minimum flow to the River Murray system which is now, for the first time, codified in law. On average, the Snowy scheme will deliver more than the minimum to the River Murray system.

I note also the role of the former government in agreeing to the arrangements that are now proceeding, including the Murray-Darling Basin Agreement Amending Agreement (MDBAAA). The terms of the agreement were signed by the then minister for water resources on 5 October 2001. Some members may recall that that was the day before the 2001 commonwealth election was announced.

I have been advised that, in signing this resolution, the former minister committed South Australia to the arrangements that included the diversion of water to the Snowy River. From the first weeks of office, this government has actively pursued negotiations with the other governments to achieve environmental flows for the River Murray. Members may recall the outcome of the Murray-Darling Basin Ministerial Council on 12 April 2002, when we were able to achieve an historic recognition of the need for additional water flow for South Australia for environmental purposes.

As I have said, on 15 April 2002, the Bracks-Rann River Murray Environment Flows Fund was established to provide additional money to find 30 gigalitres per annum for the River Murray. A special task force established to deliver this outcome met for the first time in the middle of July. The government is committed to ensuring that we restore the health of the River Murray. It is vital that we continue to work with our upstream partners to improve our management of the river and to find genuine savings to ensure that both rivers are managed sustainably into the future. The point needs to be made that if the hard work can be done and those governments can go the final distance to find additional water for the Snowy, the pressure is really on them to do the same for the River Murray. When the needs of both rivers are weighed up, they both have a great need for additional water, but the River Murray's need is by far the greater, because it is far more important to Australia, both environmentally and economically.

It is up to all of us in this chamber and in South Australia to keep reminding the eastern states and the commonwealth that they need to put money into this important resource. They need to do the hard things, which they have been able

to do in relation to the Snowy River. I know there is no political advantage in it to the eastern states or perhaps to the commonwealth, but the River Murray's need is greater. I know that the shadow minister agrees with me that we as a parliament need to be united in continuing to put pressure on for additional environmental flow for the River Murray.

NETBALL FUNDING

The Hon. D.C. KOTZ (Newland): Given that the Premier informed the house on Monday that he had told the Ravens, 'Whatever the Ravens would like me to do, I am happy to do, not just as a patron but also as Premier of this state', will the Minister for Recreation, Sport and Racing advise the house why the government refused to provide Netball SA with some $50 000 requested to finance the continued running of South Australia's two netball teams, including the Ravens?

The opposition has been informed that Netball SA requested financial assistance from the state government to run South Australia's only two teams, a request which was refused by the Treasurer. I have also been advised that the request was made in the hope that this financial support would not only keep the two teams financially viable but would also strengthen the South Australian submission to Netball Australia. We were further advised that one of the reasons cited for the decision to cut the Ravens from the national league was lack of financial support. Yesterday, the Treasurer confirmed that the Basketball Association of South Australia had been provided $800 000 worth of state government funding.

The Hon. M.J. WRIGHT (Minister for Recreation, Sport and Racing): It would be fair to say that I have met not only with Netball SA but also with a whole range of different sporting organisations. There was a meeting with, I think it was, Clive Armour, as well as a couple of people from Netball SA, who put to me a particular position—somewhat of an ambit claim—which I think it was with regard to the restructuring of their financial arrangements. I advised them at the time that I would consider that, but it was unlikely that the government could look at an arrangement with regard to their loan repayments. Economically, that—

Members interjecting:

The Hon. M.J. WRIGHT: Do members opposite want me to answer the question, or do they want to answer it? As I was saying before I was interrupted, I advised them at that meeting that it was unlikely that the government and I as minister could go into the type of consideration that was being put before me, because it was not a financially sound position; but that I would take advice about that and come back to Clive Armour and the representatives.

Unlike the opposition, they well understood that position, and they were advised accordingly. I might say that to the best of my memory, as a part of the correspondence that I wrote on behalf of the government, I was also delighted to advise that Netball SA had been a very good corporate citizen. It had undertaken its responsibility in a very strong and sound way, and the way in which they had done that, from the perspective of judgments that were being made at a national level, should be taken account of.

Sad to say, as the Premier pointed out yesterday or the day before, that has not been taken account of at a national level; and that shows, I think, the immaturity of the thinking at the national level. I just hope that the opposition does not make the same mistake.

Members interjecting:

The SPEAKER: Order!

ENERGY, ALTERNATIVE

Ms RANKINE (Wright): Can the Minister for Energy advise the house of any new developments in the search for alternative energy sources for South Australia?

The Hon. P.F. CONLON (Minister for Energy): I take this opportunity to advise the house of some very interesting research undertaken at the Cooperative Research Centre at Thebarton. It was my great pleasure this morning to attend with Dr David Brockway; Professor Ian Young from the University of Adelaide; Bob Althoff, the CEO of NRG Flinders; and, the special guest, the Vice-Chancellor of the University of Adelaide, Professor James McWha.

I was there to open the latest version of a research reactor for coal gasification, that is, for the gasification of Lignite (colloquially known as salty wet coal) that we have in such abundance in South Australia. The reactor, which is operated by a doctorate student, Alexandra Briedis, is part of a process whereby that abundant brown coal is taken and dried by a process developed by the CRC and is turned in this reactor into clean gas. The gas then ultimately is intended to be used in a combined cycle electricity generator.

This is very exciting research for South Australia's energy prospects. One of the great difficulties that we face is the fact that we rely so heavily on natural gas for our energy generation and that we have limited supplies of coal—NRG Flinders being the only coal generator we have in the state—as opposed to the very heavy reliance for cheap coal for generation in the eastern states. The ability to turn those vast amounts of brown coal into useable energy—and one might say quite clean energy, much lower in greenhouse emissions—is very exciting. It is, unfortunately, a fair way yet from commercial application but it is a very exciting project—one that I hope one day will come to fruition. I congratulate Alexandra Briedis on her research and all the other participants at the CRC.

AFL PRELIMINARY FINAL

The Hon. R.G. KERIN (Leader of the Opposition): Will the Premier advise the house whether the CEOs of the major South Australian stakeholders in having a preliminary football final in Adelaide—the Adelaide Football Club, Port Power, and the stadium owners (the SANFL)—were consulted before the government referred the issue to the ACCC? The government, the opposition, the SANFL and the two AFL club supporters all want the preliminary final in Adelaide, and it is important, as in all team sports, to work together. Unfortunately, the opposition was not consulted for its opinion before the Premier told the media the matter had been referred to the ACCC. The opposition has been told that the drawing of the ACCC into a sporting matter has concerned sporting administrators. It is important to ascertain whether other stakeholders were consulted for their views on what is a significant action.

The SPEAKER: Order! Before the Premier answers that question, yet another practice that has been used to get some debate on the record in explanation of questions is to say, 'We have been told', without citing the source, and that is a practice which does not accord with standing orders. The Premier.

The Hon. P.F. Conlon interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN (Premier): Isn't it amazing! Just a few days ago—

The Hon. R.G. Kerin interjecting:

The Hon. M.D. RANN: No, you are not going to get away with this. Just a few days ago, the Leader of the Opposition in this chamber was very keen to sign a petition along the dotted line to get the preliminary final in this state and, one by one, members opposite signed along the dotted line—

The Hon. P.F. Conlon interjecting:

The SPEAKER: Order! The Minister for Government Enterprises will come to order; and other members of the house whom I can hear but not see who are creating the cacophony will recognise, I am sure, that they bring no credit on themselves or the rest of us by doing so. The Premier.

The Hon. M.D. RANN: I thought that the Leader of the Opposition signed the petition wanting a preliminary final in South Australia. I will now have to check to make sure that he just did not initial it, because apparently there are different standards on the other side of this parliament. If the Liberals do not want the preliminary final in this state, then at least have the gumption to tell the people of this state, because a few days ago you were right behind me. Let me just tell you—

The Hon. R.G. Kerin interjecting:

The Hon. M.D. RANN: No, you have asked your question and you are now getting the answer. No wonder they are talking about your leadership. I will tell you what happened. I spoke with Wayne Jackson after he publicly said that he wanted the Premier of South Australia to go in hard to win the preliminary final for South Australia, and that is what I am doing. What I am doing is handing it over to the independent umpire, Professor Allan Fels. If you are prepared to sign things—

The SPEAKER: Order! The Premier will address the reply he is making to the chair in the same way as the question was addressed to the chair.

The Hon. M.D. RANN: Thank you, Mr Speaker. I thought that the Leader of the Opposition was genuine when he said he supported a preliminary final in South Australia and was prepared to sign along the dotted line and join me. Now apparently he wants to white-ant South Australia's case. I was very happy to have a news conference with Steven Trigg from the Crows alongside me, and on the other side Brian Cunningham for Port Power. Get on board and support South Australian teams!

The Hon. R.G. KERIN: By way of supplementary question, did the Premier consult, because I know he did not?

The SPEAKER: Order!

The Hon. M.D. RANN: I came into this parliament and, when I announced that we were taking the matter to the ACCC, members opposite said, 'Hear, hear!'.

Members interjecting:

The SPEAKER: Order! The member for Playford.

The Hon. M.D. Rann interjecting:

The SPEAKER: Order! The Premier has finished the answer. The member for Playford has the call.

GAMBLING

Mr SNELLING (Playford): Will the Minister for Social Justice—

The Hon. R.G. Kerin interjecting:

The SPEAKER: Order! The leader has had his say: if he wants further say, I invite him to go outside. The member for Playford has the call.

Mr SNELLING: Will the Minister for Social Justice advise the house of any new initiatives to raise community awareness about the dangers of problem gambling?

The Hon. S.W. KEY (Minister for Social Justice): I thank the member for Playford for his question. Today I had the great pleasure of launching a web site for the South Australian Heads of Christian Churches Gambling Task Force. The website is the latest initiative by the gambling task force to raise awareness about problem gambling. Our website has several advantages over other media for getting information about problem gambling to the community. It can be easily kept up to date, and it is possible to monitor the number of people accessing the information and, most importantly, allowing South Australians to get local information about service providers.

When I launched this website, I also mentioned that it is an opportunity for people to access information, probably anonymously, and for people with a gambling addiction it is important they get information without necessarily embarrassing themselves by admitting that they have a problem, at least in the first stages. The web site is about harm minimisation and includes self help strategies. It has a screening questionnaire, and links and information about counselling services.

This government is well aware that the involvement of community organisations is crucial to planning effective strategies to prevent problem gambling. The Gamblers Rehabilitation Fund has allocated community education grants to groups and organisations that come up with innovative ideas to highlight the potential harms of gambling. I note the member for Mawson yesterday asked a question along these lines. I am pleased to say that we are looking at a number of ways to address this problem. A number of strategies are being put in place, along with the break-even program to minimise the harm caused by gambling. The website address is www.gamblingtaskforce.org.

INDUSTRIAL RELATIONS REVIEW

The Hon. I.F. EVANS (Davenport): Will the Minister for Industrial Relations apologise to the house for telling it that both the federal government and the federal minister, Mr Abbott, had put forward submissions to the government's industrial relations review when the federal government has written to the state government advising that it will not be making a formal submission? In answer to a question from the Leader of the Opposition on 21 August, the minister said:

> You would well understand that this side of the house, unlike the previous government, has put in place a process, and a range of major stakeholders, including Business SA, the federal government and, I understand, even the federal minister the Hon. Mr Abbott, have put forward submissions. Does the honourable member want me to rule out the submission from the federal minister? Of course he does not. In response to the South Australian government's invitation to make a submission, the federal minister's department has responded as follows:
>
> I refer to your letter of 17 June 2002 addressed to the Minister for Employment and Workplace Relations, the Hon. Tony Abbott, regarding the review of the industrial relations system in South Australia. The minister has asked me to reply on his behalf. The department wishes to acknowledge receipt of your discussion paper and advise that it will not be making a formal submission.

The SPEAKER: Order! The question is out of order. I invite the member to come and speak to the chair. The member for Bragg.

Members interjecting:

The SPEAKER: If the member is dismayed, let me point out that to invite the minister to apologise for a statement implies that he has misled the house. That can be determined only by a substantive motion being put to the house and being debated. It is therefore out of order. The member for Bragg.

SCHOOLS, CAPITAL WORKS

Ms CHAPMAN (Bragg): Will the Minister for Education and Children's Services undertake to immediately provide a schedule of capital works projects for 2002 to the federal Minister for Education pursuant to the administrative guidelines between the state and federal government? With your leave, sir, and that of the house, I seek to explain.

Members interjecting:

The SPEAKER: Order!

Ms CHAPMAN: I am seeking your leave, sir.

The SPEAKER: The member knows that she may proceed unless a member calls 'Question'. In the event that a member calls 'Question', the member must resume her place immediately. Under the practices of the chamber, leave is automatically granted.

Ms CHAPMAN: Thank you, sir. On Monday 26 August I questioned the minister on her failure 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 to proceed. Further by letter of 16 August, the federal minister gave notice that no further capital funding payments can be made until the acceptable schedule of recommended projects had been received and accepted by him. The minister simply responded that the budget had not yet passed through the parliament. Guideline 28 of the quadrennial administrative guidelines requires the state to agree:

> To submit a schedule of capital projects that will fully commit the state's allocation of commonwealth funding for the year. The schedule may be submitted in one or two instalments, either before or during the program year, and no later than two weeks following any state government public announcement of funding for those projects (e.g. budget announcement). Payment will only proceed if sufficient projects have been approved by the time the payment would otherwise have been due.

The schedule was due to be submitted no later than 25 July.

The Hon. P.L. WHITE (Minister for Education and Children's Services): The schedule has been submitted. The letter from the federal minister was received in my office on 16 August, which I believe was a Friday. It was brought to my attention midway through the following week, and I have already responded.

PUBLIC EDUCATION WEEK

Ms CICCARELLO (Norwood): Can the Minister for Education and Children's Services tell the house about celebrations for Public Education Week, which will be launched on Friday?

The Hon. P.L. WHITE (Minister for Education and Children's Services): I would like to inform the house that, this year, Public Education Week will be a joint venture between the Department of Education and Children's Services and the Australian Education Union. I will be launching Public Education Week this Friday, 30 August, at the public education conference at the AEU. What is so remarkable about the event is that last year the union was excluded from the Public Education Week showcase and launch by the previous minister in Rundle Mall.

Public Education Week is about celebrating the strength of our public education system, and it is the view of the government that all interested parties have a contribution to make to that. So we are taking quite a different approach to include everyone in that celebration of public education this year. The theme is, 'Public Education—at the forefront of change and innovation, opening doors for young people'.

Public Education Week is a time for us to celebrate excellence in our schools and preschools in South Australia. Many schools and preschools have arranged activities that will showcase their achievements and successes to the general public. Thousands of students across the state will be taking part. The highlights of the week include dance and music performances in Rundle Mall (on Monday 2 September) and student performances in major shopping centres and at the Xsite at the Royal Adelaide Show. Student involvement in the Marion Learning Festival will be included in the week.

There will also be collaborative learning activities across schools and preschools in South Australia, with secondary, primary and preschool students working together. Local community activities include schools opening their doors to showcase their achievements to the public. This year, Public Education Week will coincide with the Royal Adelaide Show where public education will be on show through the department's Xsite.

Also significant in the lead-up to Public Education Week is the unveiling of a new logo for the new Department of Education and Children's Services. The logo has been designed to represent a new era in public education and children's services in South Australia. It was designed in-house by the department's artist, Jouni Soininen, at no cost. The logo is symbolic of the significance this government places on partnerships in education, incorporating three stars representing the important partnership which exists between teacher, parent and student. It also includes three silhouettes which characterise three important phases of a child's educational development: children's services, primary and secondary schooling.

Huge financial cost in changing to a new name and logo has been avoided by a directive issued to staff by the Acting Chief Executive. That directive was in the form of a circular to all staff, dated 3 July 2002, asking staff to use remaining DETE stationery where appropriate as part of a commonsense approach to efficiency. Staff were also asked to liaise with colleagues to ensure that all generic stationery was exhausted before ordering new stationery. I look forward to participating in our important celebration of public education in this state. I recommend to all members of this chamber that they take the time to get involved in the Public Education Week activities and recognise the celebration in their own local school communities.

INDUSTRIAL RELATIONS REVIEW

The Hon. I.F. EVANS (Davenport): Does the Minister for Industrial Relations stand by his previous answer to the house that both the federal government and the federal minister, the Hon. Mr Abbott, have put forward submissions to the government's industrial relations review?

The Hon. M.J. WRIGHT (Minister for Industrial Relations): I thank the shadow minister for getting his

question correct. I would have thought that the federal minister and the federal government are one and the same thing, but nonetheless the advice I have received is that the federal minister has put forward a submission. Further to that—and I do not have these words in front of me—the shadow minister made some reference whereby the federal minister said something like, 'I will not be making a formal submission but here is a speech that you might like to consider.' So, I think it is a moot point. My advice is that the federal minister has put forward a submission. Whether it be a formal submission or whether it be a speech that he has provided for us to consider, I do not think makes a whole lot of difference. If the shadow minister wants to get tripped up on this, well and good. I believe that the information that I have provided to the house is correct. If that is not the case, I shall be happy to come back.

An honourable member interjecting:

The Hon. M.J. WRIGHT: I am not sure I will! From my advice, what I said was correct, unlike the comparison between what the shadow minister provided earlier today and what he said yesterday, referring to an agreement that dates back to 1996. They are gulfs apart.

Members interjecting:

The DEPUTY SPEAKER: Order!

TRANSPORT SA

The Hon. M.R. BUCKBY (Light): Will the Minister for Transport advise the house whether negotiations regarding the supply of light vehicles to Transport SA have been completed and, if so, will he advise the house of the outcome and financial impact on Transport SA? During estimates I questioned the minister with regard to the contract held by AH Plant for the supply of light vehicles, and I am advised that the company does not wish to continue with the contract. At that time I was advised that negotiations were not yet complete and that discussions were being conducted with Fleet SA.

The Hon. M.J. WRIGHT (Minister for Transport): I will be happy to follow that up. I am not sure of the answer. Since estimates I have not been advised whether those negotiations have been completed. I am certainly happy to follow that through for the shadow minister and get him an answer at the earliest opportunity.

CHILD ABUSE

Ms BEDFORD (Florey): Will the Minister for Social Justice advise the house of any steps that are being taken to promote awareness of child abuse and neglect issues?

The Hon. S.W. KEY (Minister for Social Justice): Next Monday Her Excellency the Governor, who is the patron of the National Association for the Prevention of Child Abuse and Neglect, will officially launch Child Protection Week. Child Protection Week will highlight the vulnerability of children with special needs and the importance of protecting them against abuse. This year's theme, 'A child with special needs is a child like any other,' addresses the need for people to be aware of how to communicate with children with disabilities and to reduce their risk of being abused. Child abuse is a complex problem, but with increasing awareness throughout the community we can move forward and begin to reduce the incidence of abuse. This state's current review of child protection is well under way, and its exploration of how the government can improve ways to protect children from harmful behaviour and abuse will assist in future policy.

I am advised by DHS that a plan will be delivered to me in December, and I hope it will provide effective strategies to improve the provision of child protection services in this state and ensure better outcomes for children, young people and their families. While government plays a large role in child protection, it is society's shared responsibility to look after our children and young people and ensure that they are kept safe from those who take advantage of their innocence and vulnerabilities.

It is important for us all to remember that most child abuse occurs where children and their parents think they are safe. That is why it is so hard to deal with. Although it is hard to face up to, none of us should turn a blind eye. The government is committed to helping the National Association for Prevention of Child Abuse and Neglect (NAPCAN) South Australia to address child protection issues through a community approach, promoting awareness of child abuse and neglect issues. This year the government provided NAPCAN with $13 500 as part of a funding agreement for three years. I am sad to say, however, that this is more support than has been provided by any other state or territory to NAPCAN branches around the country.

EDUCATION, VET PROGRAMS

Mr GOLDSWORTHY (Kavel): Will the Minister for Education and Children's Services assure the house that an adequate level of funding will be provided to satisfactorily maintain vocational education training programs currently being run in schools throughout regional South Australia? Vocational education training programs have been successfully running for at least the past three years. In my electorate, SAILAH (Schools and Industry Links Adelaide Hills) currently has 20 programs either running or in the planning stages in primary and secondary schools in the Adelaide Hills. Without adequate funding these programs will not be able to continue to deliver the successful outcomes which have been achieved to date.

The Hon. P.L. WHITE (Minister for Education and Children's Services): No funding has been removed from VET in Schools programs. In fact, VET in Schools activities in schools right across the state are to be strengthened in line with achieving the goals which the new government has set for students in the transition to work stage of their lives. We have a wide range of programs currently in place in not only the honourable member's electorate but in electorates right across the state. These programs will continue. There is no threat to their funding—in fact, if anything, their role has been enhanced—and, as I have indicated several times in recent weeks, I will be making a significant announcement about those programs and other related programs which service students in the school leaving age and post compulsory age groups.

ENVIRONMENT PROTECTION AUTHORITY

Mr CAICA (Colton): Will the Minister for Environment and Conservation advise the house about the EPA's program of environmental audits of industries and landfills in South Australia?

The Hon. J.D. HILL (Minister for Environment and Conservation): I thank the member for his question and acknowledge his great interest in waste management issues

and garbage generally. In keeping with its obligations under the Environment Protection Act 1993, the EPA has conducted several industry or regional audits in the past year. These include a disposal based waste survey at selected regional landfills in South Australia, an audit of wineries and an audit of industries on the Port River. I note that the honourable member is particularly interested in the Port River. Other audits in which the EPA has been involved include domestic waste water systems in the Mount Lofty catchment.

The landfill audit is aimed at estimating the composition and quantity of wastes entering regional landfills and followed a similar audit of metropolitan landfills carried out in 1998.

Members interjecting:

The Hon. J.D. HILL: Well, this is a very detailed answer that I am providing to the house, so I want to make sure that I get all the facts right. I am relying on my notes, and I can assure members that—

The DEPUTY SPEAKER: Order! The background noise is getting to the point where we cannot hear this important answer.

The Hon. J.D. HILL: That is true. I will get the EPA onto them, Mr Deputy Speaker. In fact, 17 landfills were audited and, in addition to the audit of waste, aspects of landfill management were also noted. Some of the poor management practices noted included receipt of inappropriate wastes and poor containment of liquid wastes. The EPA will address these matters with landfill operators.

Environmental management audits were carried out at 63 licensed wineries and distilleries, and reports on the audits were presented to the individual wineries in recent months. The audit has enabled the EPA and the wine industry to identify opportunities for improving operations. It has also identified environmental standards necessary for the industry to meet world-class winery management standards and maintain the industry's international environmental image. I can say that the audit has found that South Australian wineries are heading in the right direction as most of them are making a concerted effort to improve their environmental performance.

Issues such as waste water and solid waste management have been identified and, where necessary, will be the subject of environmental improvement programs. The audit of industries on the Port River involved about 20 premises licensed with the EPA, and the results of the audit showed that generally there was good compliance with EPA licences and the Environment Protection Act.

However, four environment protection orders were issued to audited companies relating to air, water, waste and pollution of the marine environment. Follow-up inspections will be carried out of the companies issued with those orders to ensure compliance. Conditions will also be added to some licences where it was deemed that issuing an order was excessive or inappropriate but some action was required.

Each of these audits showed that there are recalcitrants who must be pushed into complying with environmental standards; some are merely incompetent, but some make deliberate decisions to avoid expenditure on environment controls. The EPA will use its enhanced powers to deal with these operators. In particular, load-based licensing will enable the EPA to reward those industries that achieve improved environmental performance—

Mr Brindal: Would you name the incompetents?

The Hon. J.D. HILL: —you don't want me to name you, do you—providing greater incentive for others to make the necessary economic commitment.

GRAFFITI

Mr BROKENSHIRE (Mawson): My question is directed to the Attorney-General. What is the government doing to address the increase in graffiti in the metropolitan area and some country towns? Given the reduction in funding for crime prevention programs, I understand that it may be the government's intention to expect local government to do extra work on graffiti prevention and removal. A recent letter from the graffiti project officer of KESAB announced that funding for graffiti prevention programs has been cut. The letter stated that the expertise built up over the last two years would be lost, and it also suggested that responsibility for continuing the fight against graffiti will, at least initially, revert to local councils.

The Hon. M.J. ATKINSON (Attorney-General): I have read the letter from KESAB. I think the point is well made, and I am now considering options for continuing the good work of the previous government on graffiti.

GRIEVANCE DEBATE

KALBEEBA LANDFILL DEVELOPMENT

The Hon. M.R. BUCKBY (Light): I rise today to grieve on the proposed Kalbeeba landfill. Last week, in the local *Bunyip* newspaper—

Mr Venning: It's in my electorate.

The Hon. M.R. BUCKBY: It is in the member for Schubert's electorate, and I am sure that he supports my feelings on this subject. I note that the truck transport that will be going to this dump will travel directly through my electorate. I cannot understand the reasons for the government's approving this as a major development, because the previous government had approved the Dublin landfill, another at Inkerman and also the Medlow Road has been—

The Hon. J.D. Hill: Far too many.

The Hon. M.R. BUCKBY: Far too many, as the Minister for Environment and Conservation says. I am pleased he says that, because the question is: why do we need another one? Even the Environment Protection Authority has indicated that it does not support this proposal for a landfill at Kalbeeba. However, the proponent is continuing.

I note from the *Bunyip* that the operator is anticipating an eastern bypass of the town for trucks that are travelling to this landfill and then along Allendale Road. I remind the proponents that an eastern bypass is a long way off, because that is exactly the reason why Gomersal Road was built—to take heavy traffic out of Gawler. I do not think even this government would support a cost of $6 million to $8 million to build an eastern bypass.

Other issues need to be addressed that may well gain some support from within government for this project. It almost smells somewhat of a deal, in that the proponents of this project have said that, once the landfill is completed, they will donate the land to the government. Prior to the last election,

the Hill-Smith family donated an area of some 900 acres of land to the government for a reserve and bird sanctuary. This land abuts that and, in fact, is the land in between Para Wirra Park and the Hill-Smith land.

There may be a few people in the department falling over themselves at the thought of gaining control of this extra land and indeed the land coming to them at no cost, forgetting that the locals will have to put up with this landfill for the next 20 years.

As I have said, three landfills have already been approved: Dublin is currently in operation; Inkerman is not; and Medlow Road, which has been developed by NORMA. Of course, at the moment, that group of councils is still sending its landfill to Port Adelaide. When that ceases, my advice is that Medlow Road will then be used. There are three landfill sites and, to me, that suggests enough competition between three operators without going down the track of another.

I believe that in 10 years about 95 per cent of the current waste that is going to landfill will be changed into compost. That is already being undertaken by a company that is delivering this service to the Geelong council in Victoria for 100 000 tonnes of rubbish per year. That operator is able to convert 95 per cent of waste into a useable garden compost, rather than going to landfill.

This seems to me to be somewhat of a deal between the proponent of the Kalbeeba landfill and the Department of Environment, where officers are saying, 'Yes, we think we can approve this. This seems like a good idea. Let's make it a major development,' rather than seeing what is really needed in terms of landfill and the environmental effects, focusing on the land being transferred in some time to come. That is not the right decision at all. I can assure all members that the residents of Kalbeeba and Gawler are firmly against this project, as am I, and we will continue to lobby the minister in relation to this proposal.

MEMBERS' REMARKS

Mr KOUTSANTONIS (West Torrens): I want to talk about the moral bankruptcy of members opposite. Given the Deputy Leader's allegations today in the media, I am shocked and stunned that the moment the member for Finniss found out about patients being sent away from a public hospital because they had private health insurance, instead of phoning the minister immediately and saying, 'This is outrageous,' he waited. What did he do? He waited to come into this place.

What is the equivalent act? The equivalent is to see someone commit a crime, do nothing and then get up in this place and, in a question, report it to the police minister to try to embarrass the government. I am stunned. I am also stunned that this man can get up in this house and criticise a policy and a culture that have been in place for eight years under the previous administration and expect it all to go away in the first five months of a new government. I cannot believe it.

This is the Dean Brown health system that we are trying to fix. Twice today, our minister invited the shadow minister to take four small steps across the chamber to give her the details to enable her to fix the problem. What does he do? He does nothing. He turns tail and tries to score political points. It is absolutely disgraceful.

In question time yesterday, the member for Davenport made accusations against one of the unions that represents retail workers. What has a retail worker ever done to the Liberal Party? Absolutely nothing, apart from serve it. The member did not do his research properly. Whoever does the member's research is obviously incompetent, because they could not get their facts straight. An agreement that was made in 1996 was read out. There are two points to this. First of all, the shadow minister attacked a system of industrial relations imposed by their government—the Reith-Abbott system—and then gets it wrong.

Members interjecting:

The DEPUTY SPEAKER: Order! The members for Morialta and Mount Gambier—I do not know whether it is to do with the letter 'M'—are both out of order. The member for West Torrens.

Mr KOUTSANTONIS: All the member for Davenport had to do was pick up the phone, speak to the union and ask for a copy of the agreement. He has had close relationships with the union movement in the past. For him to hide behind and blame one of his staffers, and also blame his technique on the Internet, is an absolute disgrace. I want to raise another point, and that involves the disgraced former Treasurer in the other place, the Hon. Rob Lucas, who has accused me of welching on a bet with him. I hate to waste the time of the house on tedious matters relating to the Leader of the Opposition in the upper house, but I say this: I did make a bet with him, but the bet was for dinner. I bet him that the former premier Mr Olsen would go to the election before Christmas, and I lost that bet.

I am happy to take the Leader of the Opposition in the upper house to dinner anywhere he would like to go, but he wants it in cash. He does not want to come down from Burnside into the western suburbs, because we are not good enough for him. Well, we serve chablis and brie in the western suburbs as well. If he wants to come down and have a good meal in the western suburbs, I will give it to him, but I will not trust him with one cent. Not one cent! I did not trust him with $6 billion in the Treasury and I will not trust him with $50 cash, because he cannot be trusted with the money. I am surprised he has not said that I owe him $3.5 billion, given the way he accounted our books while he was Treasurer, but I can say this: I never made a bet with the Hon. Rob Lucas for $50 cash. It was for the equivalent of a dinner worth $50 if I won or he lost. He is welcome in the western suburbs at any time for dinner, and at any restaurant but, unfortunately, he does not think they are good enough.

The DEPUTY SPEAKER: I advise members that, if they do not heed the advice of the chair, they will be ignored when they seek the call.

ITALIAN RELIGIOUS CELEBRATIONS

Mrs HALL (Morialta): Adelaide's well-known calendar of major events is the envy of our interstate counterparts. However, today I would like to pay tribute to another collection of events that perhaps are not as well known but, nevertheless, are certainly up there with their bigger counterparts in terms of dedication, enthusiasm, energy and volunteer support. Every year I have the privilege of attending several religious celebrations, including those that honour the Madonna di Montevergine, Madonna dell'Arco, San Rocco and, in particular, Saint Anthony. Celebrations of patron saints of Italy are important ceremonial occasions within our Italian community. With the exception of the celebration for Saint Anthony in the winter months of June, almost every Sunday in spring and summer the majority of our Italian friends have an appointment with one of the 40 religious festas that are held around churches in Adelaide and, indeed, one even in my home town of Port Pirie. In fact, the feast

held at Port Pirie was the first Italian feast celebrated in this state.

As far back as 1931 the town provided that approximately 250 devotees participated in an annual celebration in honour of their patron Madonna. These initial numbers have increased dramatically over subsequent years to the point where festas such as the Madonna di Montevergine, held at the St Francis Church at Newton, now attracts more than 10 000 people for its celebration in September. Of the 40 Italian religious associations in the state, eight were founded in the 1950s; 11 in the 1970s; and the remaining 21 were founded in the years up to 1997. Eleven associations have direct links with the club from the same region or the same province in Italy and, of these 11, five were formed as a direct consequence of the foundation of an Italian club for that region.

The establishment of these religious associations began a new chapter for Italians in Adelaide as they became recognised and integrated as an important part of our state. For the first time they could voluntarily highlight and display their cultural diversity with pride. Members of parliament now regularly accept invitations to participate in feasts organised by the Italian community. A major focus of these religious celebrations always includes a procession and a mass, along with a social and sporting program. But, regardless of the format of the celebration, these festas provide the opportunity to acknowledge the important traditions and values of Italian life. The processions themselves provide a public recognition of the specific group's unity; the organising committees are afforded the chance to publicly reaffirm their regional identities and traditions; and the blessing of the road along which the processions travel reminds them of times gone by in their own towns when the patron saint blessed the piazzas.

The Italian community is often admired for its many diverse skills, so imagine my pleasure when I was researching material for this speech to find that they had, unwittingly I suspect, managed to organise an exact gender balance between the existing 32 patron saints. The recent addition of Saint Pio has, of course, tilted this balance, but hopefully the canonisation of Mother Mary MacKillop should restore it.

Last year we celebrated the International Year of the Volunteer, but I am sure we would all agree that we do not need to have dedicated special years or a special reason for us to say thank you for the untiring efforts of the dedicated volunteers within our community. Today, therefore, I specifically want to pay tribute to the volunteer groups who are involved in organising the many religious festivals that are held within my electorate of Morialta. These people work tirelessly and selflessly to ensure that their particular festas are a success but, more importantly, to reinforce that their Christian values and beliefs are inclusive and not exclusive of all members of our community.

South Australia is home to numerous multicultural communities, and it is this diversity that is both highlighted and celebrated by events such as the religious festas honouring the patron saints from the many and varied regions of Italy.

CHILD LABOUR

Ms RANKINE (Wright): Tomorrow evening a very special event will be taking place in the Old Chamber. The Premier of South Australia will be joining me in hosting the official launch of the Fundraising for the Child Labour Schools Company here in South Australia. I believe there is no argument that the most precious resource this or any other nation has is its children. I am sure we would all agree that to care, love and protect our children is the responsibility of not only every parent but every member of our society. Imagine how horrified we would be if, at the age of three, five or 10, our children were forced into work. Imagine how horrified we would be to see our children chained to looms so that they could not run away at the end of their day's work; to see them fed a bowl of watery soup; to have them work until they were crippled or dead by the age of 15. That is what is happening every day in India, where something like 100 million children below the age of 15 are engaged in forced labour of some form or another, making bricks, weaving rugs or forced into prostitution. The problem seems huge and there is no doubt we would be left wondering what we can do about it.

I want to talk briefly today about an initiative of the Forest and Furnishing Products Division of the CFMEU which commenced out of the United Nations/ILO pilot program to eliminate child labour. The CFMEU, under the driving force of their National Secretary, Trevor Smith, has developed a model of what can be achieved through community, national and international cooperation. As a result of this initiative, three schools in some of the poorest parts of India have been built; 460 children have been removed from child labour exploitation; and these communities are now seeing their children have the chance of a real future. Their hopes for their children are very different from ours. I know only too well that there are many children in our state and our nation who do not have the opportunities I think they should have. These are areas that our governments and communities have a clear responsibility in addressing.

But, just imagine if our hopes for our children were not about skills, qualifications, jobs or happiness, but simply about survival. We are now being given an opportunity to make this very simple hope of parents in one of the world's poorest countries come true. As we draw closer to 11 September and remember the grieving of parents around the world at the loss of children and loved ones in that devastating event in New York, I am reminded of the things that unite us as parents.

Out of the original CFMEU initiative the Child Labour Schools Company has been formed, and I am delighted to advise the house that very recently I was invited to join their board. The board is made up of eminent people from across Australia, none of whom, I should point out, receive any remuneration for their services. Everything they give—their skills, their expertise—is given voluntarily. Every dollar raised by the Child Labour Schools Company goes towards the building of schools and supporting students in India. The caste system in India has been officially dismantled. However, the reality is that it is alive and well in the rural and remote parts of the country. The education system in India is not like Australia: you do not go to school in India to learn to read and write—you cannot go to school until you can read and write!

The Child Labour Schools Company has worked with the communities in establishing schools in the states of Uttar Pradesh, Bihar and Punjab. Initially they were little more than thatched huts, but the outcomes far exceeded the facilities. The Child Labour Schools operate under a contract between the company, the local communities and the families of the children. The children have everything provided so that they are no longer a financial burden on their parents and to ensure that the family can still survive without their income. They

are clothed, fed and educated. The rewards are enormous and the challenge now is for this work to continue. The Child Labour Schools Company is aiming to raise $1 million to further establish primary level schools in India and to improve on the facilities that are already being provided.

Their aim is also to have the schools, once built, taken over by the government. The purpose of tomorrow night's event is twofold: first, we want to lift awareness of what needs to be done; and, secondly, we want to lift awareness of what can be done—and the Child Labour Schools Company is showing us the way. If $30 000 can provide schooling for 460 children, imagine what will be achieved with $1 million. I want to place on record the appreciation of the Child Labour Schools Company of the Premier's providing his very valuable time to support this very worthwhile cause.

DROUGHT

Mr VENNING (Schubert): I note the ministerial statement made by the Premier today in the house. I certainly agreed with him entirely when he was speaking about the drought in South Australia, the lack of rain and how he will visit the country regions. I certainly hope that he can see as much as he possibly can. Country South Australia is really feeling very anxious at the moment with the lack of rain. This is on top of the recent budget about which country South Australia is also feeling very anxious because of the cuts to government funding in all areas of country life. Certainly, it is a double whammy and a cause for great concern.

While many of us in Adelaide are revelling in the warm weather we have been experiencing, the lack of rain in recent months is having a severe impact on farmers' crops, livestock and pastures throughout the state. Severe frosts in the evening are compounding that problem. The National Climate Centre is predicting a hot and dry spring, and that is certainly causing much concern. South Australia, along with New South Wales, Queensland, Victoria and Tasmania, has a 60 to 70 per cent chance of receiving below average rainfall this spring. South Australia has experienced a drier and hotter than average winter, and we have expectations of a long dry summer, which, as I said, is a real concern.

Unless we receive reasonable spring rains in September, cropping potential will diminish and crops will deteriorate. I believe that with another week of dry weather we will start seeing some serious damage to most areas of the state. The most affected areas are the Murray Mallee, the Riverland, the Upper South-East and Upper North, and it is moving south very quickly indeed. When travelling to parliament on Monday, I noticed that the area south of Port Pirie has within about three or four days changed from a lush green to a dark green with streaks of brown. Certainly, this situation is causing some concern. These are the driest conditions that many farmers have seen in their farming careers, along with soil erosion, drift problems and stunted crops.

Handfeeding of livestock is occurring. This is very difficult for farmers, as many of them bought stock at a cheap price and they have been handfeeding them. However, they are now worth less than what they paid for them only a few months ago. So, it is certainly a double whammy. We are nearing a crisis situation with a lack of feed, and crops dying. The harvest will be a very lean one indeed. It is pretty bad, as I said, but it can be changed overnight with that life-giving rain. Livestock is in poorer condition and is being sold due to lack of feed. It is a double whammy particularly when you think about cropping, because most farmers have already incurred all their costs. They have completed their spraying and all their fertilising, and all they are left to do is wait for the harvest. However, if the harvest does not eventuate, they have already incurred all their costs, which are massive today.

To top this off, we now have an emu plague in the Upper North and the Riverland. The drought conditions in New South Wales are resulting in mobs of up to 300 emus ravaging the crops and valuable feed and damaging fences in the Upper North and as far south as Jamestown, as they search for food and water. It is a double blow for farmers in the Upper North who have had six years of drought and four years of grasshoppers, although last year they had a good year.

The present situation is placing severe financial strain on farmers, who stand to lose crops due to the drought conditions. Only decent rainfall in the next week or two will halt the emu plague. At this stage, authorities have ruled out a broad scale cull to combat the plague, instead of issuing cull permits to individual land-holders, a move which is supported by the farmers federation.

Farmers will be seeking rural counselling. Some have experienced two years of failed crops. Drought causes great stress on families and increased health problems. Some producers will struggle to meet repayments, with no other crop income. With livestock numbers being reduced, rebuilding of breeding flocks and herds will take time.

Also, the drought conditions across Australia will impact on the prices that consumers pay for foodstuffs. I also support the Premier's comment today in relation to approaching the federal government about exceptional circumstances funding for our farmers, which, no doubt, will be subject to means testing. Some areas in the state have not had a good season in 10 years. I hope that, first, farmers are able to make application and receive a sympathetic hearing; and, secondly, that they will be granted the funds to enable them to continue farming. The high costs involved are causing great stress. Let us hope that it rains during the week of the Adelaide Show, which starts on Friday.

SHOP TRADING HOURS

Mr McEWEN (Mount Gambier): 'We will all be ruined,' said Ivan, 'before the year is out.' We will all be ruined with the double whammy, no doubt. I rise again to address briefly the shop trading hours issue and the fact that some of the opponents, to what are very modest and minor changes, have claimed are changes that will be anti family. I need to talk about the other side of the coin, because without opportunities for employment in the retail sector many country families would be denied the opportunity to educate their children at university. The fact is that country families are now finding it almost impossible to send their children away to university. Even if they do not in any way try to accommodate the HECS fee, it costs families $10 000 a year to have a child away from home at university.

They cannot afford that money: it does not exist in many single income and a number of double income families in the country. They cannot afford to send their children away. We are creating two societies: a society of city folk who have access to tertiary education and a society of country folk who cannot afford access to tertiary education. It is sad. I raised this matter federally last year with Minister Vanstone. She told me that a report was being done into the benefits to youth and that this would be one of the matters looked into.

Recently, at a public meeting at the Grant High School, attended by over 100 families concerned about their inability to educate their children, we heard that this report actually discovered that, yes, there was an issue. Minister Vanstone says that she will set up an inquiry into the benefits available to young people and, in particular, the benefits available to young people needing to leave their homes to seek tertiary education in the cities. What does the report find? The report finds that, yes, it is an issue which needs to be investigated. What a joke! Families are desperate. Families have come to me saying, 'We are in our 50s; we have had to remortgage our homes to make the opportunity available for our young people to leave home to go to university in the city. That is fine for the first one, but what will we do about the second one and the third one?' We must face up to the issue that this is dividing our society. This is a significant issue across all of rural and regional Australia. Is it not remarkable that in this day and age we do not find a solution?

At the same time we are talking about a lack of nurses and teachers. A generation ago we were able to find a solution. A generation ago we were able to offer young people scholarships. We gave young people the opportunity to study and we gave them extra financial support so that they could house and feed themselves while in the cities studying. In return, we said to these young people, 'At the end of your degrees you will provide us with some service.' At the end of this time, they will go teaching for us for five years or go nursing for us. What a fantastic arrangement—it educated a generation of young Australians.

As the eldest of 10 children in a struggling farming family, the only opportunity I had to go to university was a teaching scholarship. I was delighted to take up the opportunity and to accept my responsibility of going back to country South Australia to teach. A generation later no such opportunities exist for our young people, denying them the opportunity to leave our rural communities and study. We will pay big time in the long term for our short-sightedness. We must face up to this and find ways to deal with the fact that the families of these young people cannot possibly find $10 000 a year to have them living away from home in the cities.

STATUTES AMENDMENT (STRUCTURED SETTLEMENTS) BILL

The Legislative Council agreed to the bill without any amendment.

STATUTES AMENDMENT (EQUAL SUPERANNUATION ENTITLEMENTS FOR SAME SEX COUPLES) BILL

Adjourned debate on second reading.

(Continued from 21 August. Page 1212.)

The Hon. G.M. GUNN (Stuart): I was addressing some comments in relation to this matter last week as I am firmly of the view that this measure is not necessary and is defective. It is interesting to note that most of the speakers have been from this side of the house. I am interested to know why members from the government benches have not participated. I am most interested to know why the member for West Torrens has not participated. I am interested to know why one or two other members, who I understand have strong views on this matter, have not participated, either. The member for Playford is one—a fine, upstanding member of the community. On these sort of issues one would expect him to be in the forefront. He seems to have got somewhat timid on the issue. I wonder why one or two other members here have not joined in this debate, particularly the Attorney-General who has, from time to time on social issues, been most vocal.

Mr Scalzi: It's not Barton Road, that's why.

The Hon. G.M. GUNN: I hope we do not have more on Barton Road—we have heard enough of that. I want to know why this silence is emanating from the government benches on this matter. We have had a number of speakers on this side and have expressed our concern and reservations about this measure. I repeat my concerns. No proper appreciation has been given to the rights of a previous spouse from a normal heterosexual arrangement in this legislation.

This legislation in my view is unnecessary social engineering, which does nothing of substance for the community—nothing whatsoever. It is in my view a most unwise course that the honourable member has engaged in—I am not sure for what reason.

I say from the outset that I have a record of not being particularly supportive of these social issues, and I can see no reason why I should change my views at this late stage of my parliamentary career.

Mr Hanna: About anything.

The Hon. G.M. GUNN: I challenge the honourable member to get elected to this place 11 times in succession. Whether or not he likes my views, the people whom I represent keep sending me here. They know where I stand on these issues. I say to the cross benches: where do you stand on these issues? We are entitled to know. They have views on a range of subjects and on this social issue we are entitled to know. They are most forthcoming with advice for both sides of the house. On this occasion, we do not want them to go behind the barbed wire fence but to be forthcoming on this issue. This is a matter that we are all going to be counted on, so I look forward to the Attorney-General, the member for West Torrens and those other members in the so-called right faction of the Labor Party declaring their interest before we have a vote. I know they hope that it will disappear and they will not be counted or they can duck under the bench, but at the end of the day they will all be counted. Those of us who hold these views very strongly are very happy to be counted as voting no on this issue, because we believe that we are right, and we believe that we are sticking up for families and spouses who have been left in the lurch because of these relationships.

Time expired.

Ms BREUER (Giles): I rise on the invitation of the member for Stuart, who has challenged members on this side of the chamber to speak to this bill because he seems to think that we must be hiding something. The reason that I have not spoken before on this bill is that I have seen no reason to do so. This is a very logical and sensible approach to deal with a situation that should have been corrected many years ago. I am not hiding anything or standing behind any fear of this bill splitting up families, or anything else. I feel that most of my colleagues would feel exactly the same. We do not need to stand up and spout when there is nothing to talk about. We believe that this is an important, logical, sensible bill that should have been introduced many years ago.

Any person who objects to this bill should examine their motives very carefully and consider whether those motives are homophobic, because why else would they have a problem with this measure? In their eyes, if it dealt with a heterosexual arrangement, there would be no problems; yet, in this situation, they are finding problems with it. I have many gay friends, particularly men, who have had longstanding, very supportive relationships for many years, and they have been more successful in their relationships than I was in my marriage, which was a heterosexual marriage, and any relationships that I have had since.

They have committed, caring relationships and they have lived together for many years. Why should they be denied access to their partner's superannuation, and to the financial arrangements that have been put in place for many years, because of some stupid law that is governed by some homophobic fear that homosexuals will take over the world and other people will have to turn that way too? The whole situation is ridiculous and the member for Stuart should be ashamed of himself for making those suggestions. I fully support this law and hope it goes through very quickly.

Mr SCALZI (Hartley): This is a very important bill, which should be a conscience vote. I commend the member who has just spoken but let me say that, before the member for Giles addressed the issue, only one member from the government, apart from the mover, the member for Mitchell, has spoken on this bill, so it is not the opposition who is holding it up. It is the gutless members opposite.

Members interjecting:

The DEPUTY SPEAKER: Order! The member for Hartley has the call.

Mr SCALZI: Firstly—

The DEPUTY SPEAKER: Order! The member for Hartley does not speak over the chair. If other members want to express a view they are entitled to, but they will do it in the proper way. The member for Hartley.

Mr SCALZI: Thank you, Mr Deputy Speaker. I believe that the area of eligibility for superannuation needs reform, which I support, and members would be aware that I have proposed reforms in this very important area. However, those reforms should not be based on one's sexual orientation. They should be based on caring and maintenance for the other person. This is a limiting bill, and we must ask ourselves what it tries to achieve. Until now, entitlements for superannuation have been restricted to the legal spouse, the putative spouse and children of the contributor. This bill subsumes same sex couples under the definition of putative spouse. Is this the best way to deal with inequity in eligibility criteria for entitlements? No. I propose that, rather, we should start with the contributor who, after all, has made the financial investment. Not all contributors are not treated equally. If there is no spouse, no putative spouse and no children, there is no entitlement.

Why do legal spouses, putative spouses and children qualify? They are dependants or co-dependants, and they all have in common the fact that they are in long-term, caring relationships with the contributor. It is not their sexual orientation that enables them to qualify. Therefore, we should start from this same principle—reforming the area of eligibility criteria. It is no use reforming this area in a piecemeal fashion, as suggested by the member for Florey. That would lead only to more claims of disadvantage.

Sexuality provides a poor criterion for entitlements. For example, siblings—brothers and sisters—while not qualifying under such definition, clearly should in many cases be eligible where they are domestic co-dependants, where they have contributed and maintained the other. It is no different from what it is in the 1972 Family Inheritance Act, so there is a legal precedent, and I would have thought that the member for Mitchell, a learned legal man, would know that.

It is the responsibility of members to base their consideration and decisions on what is the best for all South Australians, not necessarily political convenience. With only two members speaking, I suggest we should ask that question. This is a matter of conscience.

Mr Brindal: More than two members have spoken.

Mr SCALZI: On this side, yes; the member for Unley is correct. The member for Unley has spoken, as have the Deputy Speaker, the member for Waite, the member for Goyder, the member for Bright, the member for MacKillop, the member for Stuart and now the member for Giles. Where are the government members speaking on this important issue? Much has been said about constitutional reforms, so perhaps we should start here with a conscience vote on an important issue such as this. I challenge the Labor Party—the government—to ensure that it allows its members to exercise their conscience.

This is not a question of when the bill was introduced and thus which bill has precedence, but rather we now have an opportunity to reform this area using a fresh and innovative approach. We must not go down the road of what has happened in Victoria, New South Wales and Western Australia. They have got it wrong and it will come back to bite them. Members must decide. Are they committed to their electorate, to the state, or are they committed to their party, to their faction? Are they committed to change and proper reform? Change and reform are not the same thing. We can make changes and get it wrong, and that has happened in the past. Only members themselves can answer this question.

This is not about supporting your mates. It is about getting it right. If members opposite had convinced me, if they had spoken, I could have given some consideration to their comments, but they know that the bill before us today is limiting. It deals with the inequity of one group, yet it proposes to continue the same discrimination on other groups who are equally entitled to superannuation. Why does it discriminate against two brothers or two sisters who could be in a domestic co-dependent relationship for 20 or 30 years? Just because they are not in a sexual relationship, this bill discriminates against them.

When it comes to financial contribution, sexuality and sexual orientation are poor criteria. Only members can answer this question. It is not about supporting the bill, because it has been here for a long time. If it has been here for a long time and it was wrong, let us admit it and look at it properly. I am not discriminating against same sex couples. I believe that they should get entitlements if they have made the contributions. I have said that from the start, but they should get it because they have contributed and because they have cared and maintained the other. That is the criterion that should be used, and that would equally apply to other groups in society. Why should you get it right for one group and discriminate against a larger group? I see no logic or reason, except for supporting the party's position.

This is about addressing a problem with appropriate reforms which aim for fair and equitable outcomes for all concerned. This is not solved by the same sex bill before us, simply because not all disadvantaged groups under the current system are same sex couples, as I have said. We need

an approach which will not lead to further complications and tinkering with the definition in the future. The decision is yours. Just remember that when you define a group, at times definition can be the first step to discrimination. By supporting this bill, you are perpetuating discrimination.

For those reasons, I believe that we should oppose this bill and try to look for a more equitable and fair approach to deal with this inequity related to people not able to claim on their entitlements and not able to care for their loved ones in long-term committed relationships—

Mr Hanna: A very dishonest argument.

Mr SCALZI: Mr Deputy Speaker, I ask the member to withdraw.

The DEPUTY SPEAKER: The member for Hartley has taken exception to the reference to his advancing a dishonest argument. If he takes offence, I ask that the member for Mitchell withdraw that comment.

Mr HANNA: I would like to affirm that he is an honourable member, but the argument is dishonest.

The DEPUTY SPEAKER: Member for Hartley, I cannot order a member to withdraw.

Mr SCALZI: I will allow the house to decide whether or not the argument is dishonest.

Ms BEDFORD (Florey): I would like to acknowledge the immense amount of work that went into the research for this bill by Matthew Loader who at that stage was a staff member of mine, the parliamentary counsel and library, and also the work of Liana Buchanan and the 'Let's Get Equal Campaign', as well as the work initially of Rodney Croome from the Human Rights and Equal Opportunity Commission, who travelled from Tasmania. I also acknowledge the work of Linda Matthews and her staff member, Helen Cox, as well as Rita Llewellyn from the ASU, whilst Dascia Bennett and Leif Larsen were of immense help in the initial stages, as was the Glam Network and the Gay and Lesbian Counselling Service. I would also like to mention Ian Purcell, Mr Barry Horwood from the Aids Council of South Australia, Jan McMahon from the PSA, Bill Hignett from the AEU, Mij Tanith, Chelsea Lewis from the *Gay and Lesbian Times* and *Blaze* magazine, Scott McGuinness, and initially Anthony Albanese, whose federal bill was what inspired us to look at the state act. Even if the federal bill is enacted, these state bills remain quarantined.

The house divided on the second reading:

AYES (25)

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

NOES (20)

Brokenshire, R. L.	Brown, D. C.
Buckby, M. R.	Chapman, V. A.
Evans, I. F.	Goldsworthy, R. M.
Gunn, G. M.	Hall, J. L.
Hamilton-Smith, M. L. J.	Kerin, R. G.

NOES (cont.)

Kotz, D. C.	Matthew, W. A.
Maywald, K. A.	McEwen, R. J.
McFetridge, D.	Meier, E. J.
Penfold, E. M.	Scalzi, G. (teller)
Venning, I. H.	Williams, M. R.

Majority of 5 for the ayes.

Second reading thus carried.

In committee.

Clause 1 passed.

Progress reported; committee to sit again.

STATUTES AMENDMENT (SUPERANNUATION ENTITLEMENTS FOR DOMESTIC CO-DEPENDENTS) BILL

Adjourned debate on second reading.

(Continued from 14 August. Page 1029.)

The DEPUTY SPEAKER: Order! Will members take their seat. There are about six people on their feet, and it is hard to know who is—

Mr Brindal: I'm trying to work out what's going on, sir.

The DEPUTY SPEAKER: The member for Unley has only been here for 13 years; it takes a lot longer than 13 years to know what is going on in this place! The member for Morphett.

Dr McFETRIDGE (Morphett): I support this bill. I realise that the member for Florey has been very diligent and passionate about her bill. However, from discussions with the member for Hartley it is my understanding that this bill does not preclude anybody who would be included in the member for Florey's bill but, rather, expands the criteria for eligible beneficiaries to the various superannuation acts that will be amended by the bill.

The bill, introduced by the member for Hartley, amends the Parliamentary Superannuation Act 1974, the Police Superannuation Act 1990, the Southern States Superannuation Act 1994 and the Superannuation Act 1988, so it affects a number of acts. Just as the member for Florey's bill would introduce significant changes, it is important that we get them right. If the member for Florey's bill were to pass, it would limit the eligibility criteria to same sex couples. I am not against reducing discrimination, but I am against the fact that other co-dependants are being eliminated. I recognise that many people in same sex relationships have genuine, loving relationships, but I point out that other co-dependent couples, who may be of the opposite sex or the same sex, are living together and assisting each other in all aspects of their lives, whether one or each is looking after the other. It is not for me to judge their lifestyles, but it is for me to assist in making laws that will be fair and equitable when it comes to superannuation entitlements.

It is interesting to look at the changes that have been made interstate. I understand that Western Australia has changed its superannuation acts to recognise same sex partners as beneficiaries under the State Superannuation Act. In New South Wales, the Carr government has amended the Public Sector Superannuation Act to include same sex partners. In Victoria, the Bracks Labor government has changed the legislation to recognise the rights of partners in domestic relationships, irrespective of gender. So, a domestic partner is recognised as a beneficiary under the Victorian act. That does not mean same sex: it could be a partner of the opposite

sex, a relative or a friend. It is important that we recognise that there are many forms of relationships in today's society, not just husband and wife or people living in same sex relationships. There are other forms of co-dependency out there.

This bill adds to eligibility; it does not restrict eligibility. I know that some people have said that this bill will introduce a number of entanglements and weave a web of legalese that may restrict or delay the application of the act. However, I support this bill, because I think it is more important to make sure that nobody is discriminated against and that those who would otherwise be eligible to receive entitlements under a superannuation benefit, whether they are same sex couples or co-dependants, must be included in any legislation we are about to change and that we focus not on sexual preference but rather on contributions to each other's lives.

This bill limits entitlements to lump sum benefits, and I know there has been some objection to the fact that lump sum benefits will in some way limit the full entitlements, given that no pensions are allowed under this bill. I do not see any problems with that; I imagine that, if there are any problems, they will be highlighted in committee or in the amendments that may be moved. My understanding is that limiting payments to lump sum benefits will reduce the long-term costs to the state.

I believe that the member for Hartley has written to the Treasurer and is seeking some advice on the potential savings between lump sum benefits and lump sum benefits plus a pension type of payment. It will be interesting to see whether there is any significant saving. I imagine there would be a significant saving, but without reducing the entitlements to the beneficiaries.

I must emphasise that the bill is not restricted to those in same sex relationships; it goes further and addresses the current inequities in a much more comprehensive way. It is important that we recognise that the family is more than just what many of us would like it to be, and that is a husband, wife and children. In some people's opinion, families do include same sex couples. The changes in society are reflected in many ways, and it is important that as legislators we do our best to remove any inequities and any discrimination. The member for Florey tried very hard with her bill. However, it is my opinion that it is a bit restrictive. It does not include all who should be included, so I will support the amendment for co-dependence rather than same-sex couples. I support the bill.

Ms CHAPMAN (Bragg): May I first compliment the member for Hartley for having the courage and conviction to bring this bill to the parliament. In an earlier working life, I spent considerable time dealing with and representing persons living in domestic relationships. One of the important considerations, particularly in respect of children, was to ensure that they were adequately provided for and that they would receive support during their dependency.

I highlight for the benefit of the house a significant aspect of our community welfare legislation and its history pre-1972, in particular, the obligation for not only natural parents to provide for their children and for the government to protect children and to provide for them in circumstances where their natural parents could not, but there was a much broader application on the community in this welfare legislation which included extended members of a family.

Over the last 30 years or so, there has been a narrowing of this community obligation, which has been channelled into government as distinct from family. Coincidentally, there has been the development of dependency on, and an entitlement to support by children from, not only their natural parents but also step-parents and other members of the family with whom there is a connection by marriage.

I highlight this legislation because it has a history commensurate with the community's appreciation of two things: first, an expectation that government continue in the role of protection and support; and, secondly, recognition of changes in the way in which families are grouped. There are now few children in Australia who have both natural parents living and in the same household, and there has been a wide development of households comprising one natural parent and one step-parent. There is clear recognition in the development of the law of this phenomenon, which is clearly here to stay.

Alongside of all of that legislation there is long-term recognition of the importance of a member of the community having not only an obligation to support members of the family—and I use the word 'family' in the broader sense—but also the assurance that those members of the family have both an expectation and a capacity to share in the assets and wealth which a person accumulates during their lifetime.

I refer in particular to longstanding legislation in the Testators (Family Maintenance) Act 1918, the Testators (Family Maintenance) Act 1943 and the Inheritance (Family Provision) Act 1972. When one looks at this history of the legislation, one sees a clear record of both an obligation to support and the entitlement of family members to have a share in the asset base. I refer, in particular, to the Inheritance (Family Provision) Act 1972, which is still applicable today. This act ensures that the family of a deceased person is given adequate provision out of the deceased person's estate. This act, consistent with that objective, enables certain persons to be entitled to claim part of the estate of the deceased irrespective of whether no will exists or a will is under challenge. Section 6 of the act specifically provides that persons entitled to claim a benefit are:

(a) the spouse of the deceased person;
(b) a person who has been divorced from the deceased person;
(c) a child of the deceased person—

paragraphs (d) (e) and (f) have been repealed—

(g) a child of a spouse of the deceased person being a child who was maintained wholly or partly or who was legally entitled to be maintained wholly or partly by the deceased person immediately before his death;
(h) a child of the child of the deceased person;
(i) a parent of the deceased person who satisfies the court that he cared for, or contributed to the maintenance of, the deceased person during his lifetime;
(j) a brother or sister of the deceased person who satisfies the court that he cared for, or contributed to the maintenance of, the deceased person during his lifetime.

I draw particular attention to paragraphs (i) and (j). Section 7(1) of the act allows the judicial officer hearing such a claim, first, to make a finding that the person who is deceased has died domiciled in the state or owning real or personal property; and, secondly, paragraph (b) provides:

by reason of his testamentary dispositions or the operation of the laws of intestacy or both, a person entitled to claim the benefit of this act is left without adequate provision for his proper maintenance, education or advancement in life.

The act goes on to make provision for a person entertaining the application and having made that finding to, in their discretion, distribute whole or part of the estate to the claimant. This is an important act. It has a significant history

in this state, and it clearly recognises the two things that I have highlighted: first, the opportunity for members of a family (a brother, a sister, a father and others whom I have described) who have undertaken a caring role, to have an entitlement to claim part of the estate; and, secondly, to prescribe a means by which the concept of support being given to those who have provided support is acknowledged and perpetuated.

After a lengthy history of superannuation law in this state—indeed, in this country—there has come a commitment to make provision for oneself during one's working life (imposed as an obligation on both employers and employees, including members of parliament), sometimes by way of a compulsory contribution, to a superannuation fund for their retirement and/or for later years when a working life is not either accessible or desirable and also to make provision for those who have been in their care or for those who have cared for them.

Superannuation law has not only imposed the obligation but has also directly encouraged, through incentives by way of taxation penalty otherwise, that we all do so. It fits in with the direct obligation that is imposed on us, because we now have a very clear understanding of the need to make provision and complete that superannuation obligation to provide for retirement and one's dependants and carers.

Time expired.

Mr BRINDAL (Unley): I am not surprised that that particular section of the Labor Party is wandering around in dazed bemusement at the—

The ACTING SPEAKER (Mr Koutsantonis): Order! The honourable member should not reflect on the chair.

Mr BRINDAL: Of course not. I said 'a section of the Labor Party'. I do not see anybody in the chair other than the chair of this house, sir. There is no section of the Labor Party in the chair. It is a non sequitur. In fact, nobody is in the chair but the chair, sir.

A section of the Labor Party seems to be wandering around in dazed bemusement, because this house has taken a strike this afternoon for social justice, not just in one bill but in two.

Mrs Geraghty: I'm not in dazed bemusement.

Mr BRINDAL: No, I didn't say you. I do not think you belong to that section, but the gentleman standing next to you looks profoundly affected.

An honourable member: I don't think so.

Mr BRINDAL: I want to get on with my contribution. I commend both members on their introduction of the measures, although they are taking a slightly different approach.

As his contribution indicates, the member for Hartley says that this bill is trying to take the broadest possible interpretation on what amounts to a matter of social justice and right under contract law. As the member said in his contribution, he wants to remove from the bill the implications as to sexual preference or sexuality and make it a matter of co-dependency. The member for Bragg spoke quite eloquently on that matter, and I rose to support them.

If members ask, 'How can you have two bob each way?', the answer is: quite easily. I will continue to support both bills until this house decides which it prefers and ensure that the house achieves the best possible outcome. I reserve the right to propose amendments, if I can think of any that will enhance the bill, and so, too, when this bill goes through its committee stage, I reserve the right to make sure that it is no less effective in achieving the same outcomes as the previous bill.

In private conversation, members opposite have said that one of the problems with this bill is that it expands the pool of those people who could be beneficiaries under this scheme. I ask all members of this chamber whether it is our right to legislate for social justice and fairness, or whether it is our right to play mini Treasurer of South Australia and count just how much money will be needed to be paid out of the scheme.

Fact: every member of this place, every public servant in South Australia and every member of a government scheme, is a contributor. Fact: a board of governors invests that money and, supposedly, achieve good returns for us, although not, I think, as good returns as the commonwealth scheme has consistently achieved over many decades. Fact: because a series of governments, Labor and Liberal, chose not to contribute to the pool, we have constant haranguing from the media at the cost to the public purse of the payout.

No employer can get away with that, because we have legislated and said, 'If the employee puts in a contribution, the employer has to put in a contribution. It has to be matched; it has to be invested.' If it is done properly, those schemes should be self-funding. In its previous forms, this parliament took responsibility for not providing adequately for the superannuation, and now there is a liability to the taxpayers of South Australia.

I ask whether it is our right to compound that which was wrong by saying that we should deprive people of a legitimate contractual right. If the member for Stuart or any of us are forced to contribute and, at the end, we are promised a benefit, this house can decide to whom the benefits are applicable.

In the last bill, I think we saw a way to address a matter of social justice and of conscience for a particular group. The member for Hartley seeks to expand that group. In all conscience, I say to members on this side and to members opposite that, if the Treasurer does not like it, let him come in here and vote. He is one person: there are 46 others in this house. This is not a matter of a whim of the Treasurer of the day and of balancing the current books: this is a matter of social justice, it is a matter of conscience and it is a matter of fairness.

As the member for Bragg has adequately demonstrated in her contribution on the Inheritance Act, there are clear instances of sexuality not being involved, where there is a domestic co-dependency and where an argument—and I think a good argument—could be put that the person has as much right to consider that person to be worthy of receipt of the benefit of superannuation as many of us would consider our spouses or partners to be.

This bill is a good and genuine effort by the member for Hartley to get over a matter of conscience on his part, by not wanting to deal with what he sees as simply the sexuality matters of another bill. I suspect that many more members, my colleagues and friends on this side of the house, will find it easier to support this bill than the previous bill because of what they saw as being some of the—

Mrs Geraghty: Difficulties?

Mr BRINDAL: Not difficulties. There is often a perception with these sorts of bills that if you vote—and I can promise you that some newsletters will be published calling the present government, and probably me for crossing the floor, all sorts of things simply because I voted on an issue of social justice. Many people in our society—

The ACTING SPEAKER: Order! I understand that the member is trying to make a line of argument, but I remind him of two standing orders: standing order 118, which provides that debates of the same session are not to be referred to, and standing order 119, which relates to reflections on the vote of the house. I am not pulling up the honourable member, but I am reminding him of those standing orders and asking him to maintain his debate on the issue at hand.

Mr BRINDAL: I will, sir. In fact, I was trying to support some of my colleagues who, themselves, sir, might come in for criticism on a vote on this or any other bill. There are in our society those who put themselves up in moral righteousness to judge us all. They put themselves in some godlike—

The Hon. M.J. Wright: Don't test the chair again.

Mr BRINDAL: No, I am talking about this bill—position to say that this is morally correct, that is morally wrong, and then give us ticks (sometimes even marks out of 10) to tell us if we have done right or wrong. I simply say that this is a matter of fairness, it is a matter of conscience and it is a matter of equity. There are in our society people who deserve our protection. Often, I have heard members opposite and on my own side talk about our absolute duty to look after the people in our society who cannot look after themselves, whether they be problem gamblers, or people with drug or alcohol dependency problems. We claim the right and the responsibility to nurture and care for all sorts of people, who we claim cannot look after themselves, and we do so as a caring, compassionate society and a society that largely is still founded upon Christian principles. In that sense, we must be compassionate and we must be caring.

This bill goes somewhat further than another bill that is before this house. It may well cost the Treasurer more of his precious dollars, but that is not the worry of this house. The worry of this house is to be fair and equitable to all people.

Mr Snelling: Of course it is a concern of this house.

Mr BRINDAL: If the member for Playford—

Mr Snelling: You really are a goose, an absolute goose.

Mr BRINDAL: If the member for Playford was to be less churlish and adopt a more statesmanlike approach, it would be helpful, because it does put me off my contribution.

Mr Snelling: Are you saying that the state's finances are no concern of this house? I really think that you are a goose.

Mr BRINDAL: Fairness is of prime importance. I was not saying that state finances were of no concern. I am saying that—

Mr Snelling: You said 'no concern'.

Mr BRINDAL: Well, you can be as pedantic as you want.

Mr Snelling: It's not pedantry; it's what you said.

Mr BRINDAL: I have only a minute to go, so I will not dwell on the member for Playford, as he is not worth dwelling on. Our first concern should be fairness and justice, and this is a measure that the member for Hartley puts forward to try to achieve greater justice for people who need it. The member for Playford can answer before whatever judges he has at whatever time he wants, 'I couldn't do anything because we couldn't afford it.' If he wants to face judges either now or in the future by pleading that his hands were tied, and therefore he has no moral responsibility and no social conscience, then let him do it, because I will not.

Time expired.

Mr SNELLING (Playford): It was not my intention to speak on this bill at this stage, but I must address some of the issues raised by the member for Unley. He claims that state finances are of no concern to this house and that we should proceed and hand out cash to whomever we have the whim to hand it to, and do so without any concern at all for the finances of the state. If the member for Unley is representative of members on the other side, then woe to this state if they should ever come back into government, unless and until such time as they realise that state finances are important. State finances are very much the concern of this house. In making a decision, one obviously has to take into account matters of justice, but one also has to balance that against matters of state finances—what we can afford.

It would be very just if we went out and handed out thousands of dollars to any needy person in the state, but the state finances cannot sustain that; and there may be circumstances of competing claims on justice. We have queues of people waiting for operations in this state which requires millions of dollars. We have to make decisions about competing claims. The member for Unley says, 'Well, that's the job of the Treasurer; it's not the job of this house.' If we are to have any sort of financial responsibility at all, then of course we need to look at the effect of any decision we make on the state finances.

The member for Unley should think sometimes before he opens his trap in this place, because I really get the feeling that more often than not he does not. He just opens his mouth and the verbal diarrhoea just spews out. He just does not think—

Mr BRINDAL: I take a point of order, Mr Acting Speaker. I take profound objection to the words uttered by the member for Playford. If he cannot come into this place and—

The ACTING SPEAKER: Order!

Mr BRINDAL: —learn to conduct himself properly, he should withdraw.

The ACTING SPEAKER: Order! Which remarks—

Mr BRINDAL: 'Verbal diarrhoea' I do not believe is parliamentary and, if it is, it should not be. It is like 'bloody', which has been ruled unparliamentary, and so should that.

The ACTING SPEAKER: Order! The honourable member will not reflect on decisions the chair has made in the past. I am not sure whether or not 'verbal diarrhoea' is unparliamentary, but I will ask the member for Playford, for good debate, to withdraw the remark.

Mr SNELLING: Certainly, sir, and I replace them with 'excrement'.

Members interjecting:

Mr SNELLING: Well, then, if they take offence, 'rubbish'.

The ACTING SPEAKER: Order! The member is now escalating the matter. I ask that he withdraw the remark.

Mr SNELLING: I defer to your judgment, sir, but, with the rubbish that comes from the member for Unley so often when he stands up in this place, one really does wonder whether he puts any thought into what he says before he actually says it. The parliamentary Labor Party is yet to make a decision on this bill. I personally have some sympathy with what the member for Hartley is trying to achieve but, naturally, when it is making a decision on whether or not to support the member for Hartley's bill, the parliamentary Labor Party quite rightly will take into consideration the financial implications of the member for Hartley's bill and whether the state can afford it, regardless of what the member for Unley might come into this house and say.

Mr MEIER (Goyder): It is interesting to hear some of the comments in this debate so far. On this side of the

parliament it certainly is a conscience vote for us, just as the previous bill was. I heard the member for Playford indicate that the government has not yet determined a position on this measure, and I will be interested to hear whether they determine it as a conscience issue or a party issue. But, certainly, this whole issue of superannuation is going further afield, and I do not know whether I can support this bill either. I certainly recognise what the member for Hartley is seeking to do—to broaden the whole concept of superannuation so that it is not sex specific but relates to people who are perhaps in a supportive relationship with another person. I have full sympathy in what he is seeking to do in that respect.

I think it is important to go back to the original purpose of superannuation. I believe that it originated with the traditional family relationship where you had the working husband and the wife at home with the children. So often the wife had not received any formal training, and once the kids had grown up she often did community work but may not have undertaken paid employment. In that situation, superannuation was brought in so that, in the event of the death of the husband, the wife and children would not be left destitute: they would have sufficient money for a roof over their head, hopefully three meals a day and a few other necessities in life. It was there as a safety net.

It worries me greatly that both bills (the one we are now considering and the one on which we voted a short time ago into committee) seek to make superannuation a right for people who have been cohabiting with another person for a period of years. I guess there will be a time in the future—it has been clearly stated that South Australia and Australia have not made sufficient provision in government circles for the total superannuation payout that is required—when perhaps the next generation will be so hard-pressed through taxation to provide for superannuation that it will become a huge burden. Is that what we want to impose on our society? I would say to the younger generation, particularly: 'I don't want to impose anything on you that will create further hardship for you.'

Mr Acting Speaker, I think you would know, and certainly most members here would know, that when the previous Liberal government took office just over eight years ago we found that the unfunded superannuation liability had skyrocketed. In fact, it made the $9.5 billion debt look less significant than it was, and the previous Labor government had, to all intents and purposes, hidden the huge superannuation debt that existed. We have sought to overcome some of the debt, but we certainly did not bring it down as far as we would have liked. All we received from the then opposition was criticism for not having spent enough money in areas, even though we spent a record amount in health, education and police. Let us ensure that this parliament thinks very carefully and considers how much it will cost before we extend superannuation to a new group of people. I hope that the Treasurer will take the opportunity to comment on this bill. I note that he has not commented on the previous bill as yet, but there is still a chance in committee. When we debate the clauses, I would hope that he may take the opportunity to foreshadow what estimates would indicate it will cost this state.

This bill is much broader. I do not know the specific situations that may occur, but, say, two brothers live together and one goes into parliament. They may reach the age of 60, 60, or 50, 55 and the member of parliament dies. According to this bill, if I read it correctly, the other brother will automatically get the superannuation. Is that really necessary if, say, the other brother was gainfully employed? We have to ask ourselves the question whether it really is necessary. Of course, using that argument, we could use the current husband-wife argument, where so many husbands and wives now are both in professionally paid positions and one does not rely on the other's income at all and, in some situations, no children are involved. Of course, under the current arrangements, if the husband, say, happens to be in parliament and he dies, then the wife will receive the superannuation. She might say, 'This is a nice little addition to what I have already got through my own superannuation facilities.'

It certainly is extending it significantly. For that reason, I have not determined my position on this bill as yet. I will be very interested to hear the debate. I have heard the member for Hartley and I recognise what he is seeking to do and I compliment him on that. Certainly I was totally opposed to the same sex superannuation bill, as members will recall from last week. In relation to this bill, I am not saying that, yes, this bill has my support. The member for Playford made a relevant point when he said that we have to be very careful in putting a further burden onto the state from a financial point of view. I hope an appropriate assessment will be done to determine just how much this will cost the state. I note in the member for Hartley's second reading explanation, if I am not mistaken, that he said we would be leading Australia if we agreed to this bill, that other states have not gone this far.

In fact, I note from the acknowledgment from the member for Hartley that I read his bill correctly. Again that is fine, and South Australia has led the rest of Australia so often in the past, but let us ensure that we do a proper assessment of what the financial implications would be, because, whilst the Liberal government has now lost office temporarily, we still recognise that much has to be done to keep the debt in hand. It is not only the debt which we brought down from $9.5 billion to about $3 billion, a huge effort, but it is also the unfunded superannuation. I am disappointed that I do not have those figures with me, but other members may be able to provide them in due course. I further note that this bill goes a step further and seeks to amend certain other acts. It amends the Police Superannuation Act—and obviously that is a logical follow on—the Southern State Superannuation Act and the Superannuation Act 1998.

Furthermore, it also goes into a significant amount of detail of just how it would be implemented and the interpretation. Whatever the case, I acknowledge that the member for Hartley has sought to make a significant improvement on what was before this parliament and that has my sympathy. As I said, I will listen to further debate and assess my position. I hear that the government has yet to determine a position on this bill, and that is recognised without any doubt. Obviously we will be debating this bill when we come back in October. With those comments, I trust that other members of this house will also record their views, do their homework and assess the situation so that all of us can come to a position which is well thought out and which not do any undue harm to this state.

The Hon. W.A. MATTHEW (Bright): I, too, rise to speak to this bill and, in so doing, as with my other colleagues on this side of the house, commend the member for Hartley for the extensive research that has gone into the preparation of this bill and for the final format that has come before this chamber. As distinct from the bill which instigated the drafting of this bill, that being the bill put forward by the member for Florey, the Statutes Amendment (Equal Superan-

nuation Entitlements to Same Sex Couples) Bill, this bill is open, honest, accountable and very obvious in its intent. Like the other bill, this bill seeks to amend the provisions in just a few acts of parliament, reflecting changes to superannuation entitlements received by employees of the state. Notably, it seeks to amend the provisions of the Parliamentary Superannuation Act 1974, the Police Superannuation Act 1990, the Southern States Superannuation Act 1994, the Superannuation Act 1998, and effectively to refocus the debate on the important area of human rights, rather than make the debate one of sexual preference, which is the direction the debate took in the bill put forward by the member for Florey.

I described the member for Florey's bill in my address to this chamber as being nothing other than a Trojan horse bill, a bill that was endeavouring to put the foot through the door to instigate yet another raft of Labor government social reforms such as many of the heinous reforms we saw committed during that atrocious period of Dunstan Labor government. I note with interest that my colleague the member for Bragg has been criticised for her objective assessment of that dreadful period of Dunstan Labor government in South Australia, but I firmly believe that my colleague the member for Bragg was absolutely accurate in her assessment of the damage done to our society during that period of Dunstan Labor government, and if this government believes that it can stand in this house and introduce legislation through another path and, in so doing, thwart the normal conscience votes on such bills, well I will not sit back and be silent and neither will many of my colleagues.

I cannot reflect on a vote in this place, so I will not refer to the vote that occurred in relation to the bill put forward by the member for Florey, but what I will say in relation to this bill is that I would hope that the Labor Party at least has the decency, the openness, the honesty and the accountability on this occasion to let its members have a conscience vote. We are seeing a lot of rhetoric from this government. We are hearing it talk about honest, accountable government, but in actual fact we are seeing nothing of the sort. We are seeing a smoke and mirrors government. We are seeing all sorts of atrocious acts already starting to be committed through ministerial statements of intended legislation to be put before this house and also through bills such as that put forward by the member for Florey.

Indeed, only yesterday in this chamber a minister came forward with a ministerial statement in which he has flagged proposed amendments to the Freedom of Information Act, amendments which are draconian in their form, which inhibit access to government information and which, far from being an enhancement to the Freedom of Information Act, institutes an oppressive jackbooted regime which we see so often under extreme Labor governments in this state. However, this government is a little more clever in its presentation. The extreme actions are closeted through private members' bills, through bills which purport to be something but which in fact do something else, the glib media antics, and leaving their Premier to talk about football finals and where they might be held, about netball teams and whether or not they might be there.

Mr Goldsworthy interjecting:

The Hon. W.A. MATTHEW: As my colleague the member for Kavel just interjected, it is populist rubbish. Never was a truer word spoken about the way in which this government is undertaking its actions. My colleague the member for Hartley has thrown all that behind him and put forward an honest, accountable, open bill that is detailed in its intent and honest in where it intends to go. It provides members of the Labor Party with an honest, open approach as distinct from the one which their government takes and which enables them to determine exactly how they will vote.

I know of your interest in this matter, Mr Acting Speaker, and the conscience you like to apply to your vote. I hope that this bill provides you, sir, with an alternative that is preferable. This bill effectively enables people in a domestic cohabitation relationship, regardless of the nature of it, to be able to access superannuation entitlements but, sensibly, it limits the superannuation entitlements of persons living in a domestic co-dependent relationship to lump sum benefits. This option will significantly reduce the long-term costs to the state and at the same time guarantee equitable outcomes to members of the scheme. I am assured of that by the member for Hartley.

I, like my colleague the member for Goyder, would like to see a little more of the costings, and I hope the Treasurer will pick up this bill and cost it, just as I hope the Treasurer will cost the bill of the member for Florey and put those costings before the parliament. That is the challenge I put to the government: cost the bill of the member for Florey, cost the bill of the member for Hartley and put those costings before the parliament to help members in their deliberation as to which bill, if any, is the appropriate one that should pass on the floor of this chamber. I firmly put on the record in relation to the member for Florey's bill that it certainly did not and will not receive my support in the subsequent debate thereon. I dare say that it is likely to be fated to its deserved doom in another place.

The ACTING SPEAKER (Mr Koutsantonis): I have raised with the member for Unley the fact that standing orders 118 and 119 specifically forbid the member from canvassing debates of another session or reflecting upon a vote in this place on another bill. Honourable members are required to talk on the bill that they are debating and not on any other bill.

The Hon. W.A. MATTHEW: Thank you for your guidance, Mr Acting Speaker. I am well aware of your sensitive assessment of that bill, and sensitive may it well continue to be. This bill put forward by the member for Hartley presents an opportunity for members to consider a just way of allowing superannuation payments to be inherited by someone who is effectively a domestic co-dependent of a deceased, without going down the path attempted by the member for Florey in her bill.

If Labor members do not want to support the member for Hartley's bill and believe that something else should occur, why do they not just go down the path they want to, anyway? Why do they not legislate so people can marry regardless of the sex of either person? If they want men to be able to marry each other and women to be able to marry each other, why do they not bring a bill into the house and do it up front? Why do they not take a leaf out of the book of other Labor governments around Australia, as they are more open with their changes, and let that be debated on the floor of the house? If they are not intending to bring Trojan horse legislation into this house, let them abandon theirs and go with the legislation put forward by the member for Hartley, which is open, honest and accountable in its presentation. I repeat that I look forward to the Treasurer bringing forward those costings. One thing we know is that it would be difficult to get them under freedom of legislation after the draconian jackboot changes are finally brought into this chamber by the minister who sits here today.

Mrs GERAGHTY secured the adjournment of the debate.

SUMMARY OFFENCES (MISUSE OF MOTOR VEHICLES) AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 14 August. Page 1032.)

The Hon. M.R. BUCKBY (Light): I support the bill and commend the member for Mawson for introducing it. One of the issues that arose from doorknocking prior to the election, particularly in the Munno Para area, was that of the misuse of vehicles. Two issues were raised by residents in that area, one being lighting in the streets and the lack of reaction by ETSA in terms of replacing broken bulbs or lights, the other being speeding and misuse of vehicles and the noise created by them in those suburban streets. It is not only in those areas that it happens—it is happening in all our electorates where young people, often with testosterone running high, decide that they will test out the capabilities of their vehicle and see how much rubber they can lay on the road. I often assume they must have shares in a rubber factory because the amount of rubber that they lay on the road must mean that the tyres wear out at an amazing rate, and this is a complete waste of money.

The serious side to this is that in residential areas where this occurs regularly there is the issue of danger to other vehicles or pedestrians on the road and also the noise with which residents must contend when this is occurring. The procedures and action being brought about by this bill to create a new offence of misuse of a motor vehicle are the right way to go because the police cannot be in every place at every minute of the day. The police also need the power so that when they do observe such activity, or when a member of the public wishes to phone police and report a vehicle being misused, either by the spinning of wheels laying rubber on the road or by excessive noise where an engine is being revved, maybe in a street or driveway, they can get that registration number and take some action in terms of a warning to the person involved.

If police observe it, this bill gives a bit of strength to their arm to enable them to apprehend the person who is misusing the vehicle. If that is the owner of the vehicle, the police can give an expiation notice or, if the court determines that the offence is serious enough, it can order that the vehicle be impounded. This is a very good idea because the pride of possession is in the use of the motor vehicle on a daily basis. If that is taken away from a member of the community, it restricts their mobility and it means that they may not be able to get to work. It also means that they cannot enjoy their recreation time with friends if that involves using a vehicle, so they have to get a friend or their parents to pick them up or they have to use public transport. It creates a severe inconvenience for someone who has had their vehicle impounded for up to six months, as is suggested in this bill.

This matter has been trialled in other places, particularly in Broken Hill in New South Wales, where similar sorts of restrictions are imposed on people using a motor vehicle, and it has made a great difference to the number of vehicles that are being misused in this way. It has been reported to me that the misuse of motor vehicles has been reduced to almost nil because the message has gone through that, if you are caught, your vehicle can be impounded and, as I said before, the last thing a young person wants is to have their vehicle impounded for a long time. I stand to be corrected, but I believe that in Broken Hill a vehicle can be impounded automatically for a week. That is an inconvenience and it has changed the mind of young people as to how they use their vehicle.

Other areas of my electorate are a little more rural, and only a few weeks ago I travelled down a road at the back of Angle Vale. There is a section of road between Andrews Farm and Angle Vale which has bushes on both sides of the road and, by the amount of rubber that is on the road, I take it that it is the local drag strip. A couple of old chairs and lounges are set up in amongst these bushes and the road is absolutely black; it is covered in rubber. Not only is that the misuse of a vehicle but it creates a danger if a vehicle gets out of control, and spectators to the event could be injured, as could the driver and any passengers who might be in that vehicle.

This is an excellent initiative by the member for Mawson. It also means that unauthorised races or drag races become an offence and the bill gives the police power to apprehend these people. Again, that promotes responsible rather than irresponsible use of a vehicle. In addition, this bill makes it an offence to drive a vehicle in an irresponsible manner in a public park or garden. I am sure that we all could recount instances where we have seen that wheelies have been done in parks, on football ovals or on cricket pitches, which is just totally irresponsible. Not only that, in many cases it means that the park or the oval has to be repaired.

I remember an instance when I was farming. I was seeding a paddock, which was next to the township of Wasleys. The gate entering onto the road was open and, because of the direction in which I was driving the tractor this night, my headlights were angled into the cars that were coming down the road. Obviously one person who was driving a car towards me took offence at the fact that my headlights, which were not on high beam, were shining towards him—I presume it was a him—

Mr Brindal: It may not have been.

The Hon. M.R. BUCKBY: It might have been a her. The next thing I knew was that the car had driven into the paddock, it did four or five wheelies on land that I had just sown, and went off out of the paddock again and down the road. I was way down the other end of the paddock and, although I saw it happen, I had no power to do anything at all.

Mr Brindal: I hope you chased him in the tractor!

The Hon. M.R. BUCKBY: If I had chased him in the tractor at 15 km/h I would have quickly lost him.

Mr Meier interjecting:

The Hon. M.R. BUCKBY: Exactly. The member for Goyder said it is no wonder that I am supporting this bill. That must be about 15 years ago but I still remember it. That just shows that a level of irresponsibility is alive and well in the community, and it is one that we should be putting our foot on. Rather than taking our foot off the accelerator we should be putting it on the brake so that people who misuse vehicles, who create a problem in terms of noise or irresponsible acts in public places, in urban areas or on public roads, realise that holding a licence to drive a vehicle involves responsibility, and it affects every other member of the public. I commend the member for Mawson for this bill and I will be very pleased to support it. If it passes through the other place and is added to the acts of parliament, I believe that the South Australian public will gain greatly from the measures contained in it.

Mr SCALZI (Hartley): I, too, support this bill and commend the member for Mawson for bringing such a

measure to the house. I do so because, apart from protecting the public from the danger arising from the misuse of motor vehicles, it sends a clear message that being able to drive a motor vehicle is not only a right but a responsibility, and it is a responsibility and a privilege that should be taken very seriously.

I am sure that members have heard it said that a motor vehicle can be regarded as a dangerous weapon. There is no question that, when motor vehicles are misused to the extent explained by the member for Light, they can be regarded as a weapon; it goes from being a means of transport to a weapon. All members are aware of the importance of protecting the public and, if we look at the road toll, at the rate of accidents, we should not tolerate such misuse of motor vehicles. I am sure that other members in this place, as have I on numerous occasions, have had constituents come to their offices pleading for something to be done about the misuse of motor vehicles as described by the member for Light.

I commend the police and the crime prevention committee in my area of Norwood, Payneham, St Peters and Campbelltown for doing an excellent job. I know that the officers in that area have worked very closely with the police when trying to deal with these problems. They have succeeded, so it is a pity that the present government is reducing funds in this important area. The crime prevention committees, working with the whole community in my electorate, have been a great success. This bill goes further. If this bill passes this place and another place, it will send a clear message to the community that having a motor vehicle is a responsibility and a privilege, and no-one has the right to misuse it and endanger the public.

I see no fun in people doing wheelies and burnouts around shopping centres and on parks. Apart from the damage they cause to the environment and the danger in which they put themselves and others, it is absolutely stupid behaviour and should not be condoned or tolerated. So, the member for Mawson is right in bringing this measure to our attention so that we can send a clear message to the community that we are serious. We were serious when in government, and we are serious in opposition. I hope that the government supports this very important measure.

Something should be done about people who in a public police or in an unauthorised private place do excessive and sustained wheel spins in their vehicles. I do not see any fun in that. I do not believe that young people should see the humour in such a thing.

Another clause relates to driving a car or motor cycle in a public or private place so as to cause excessive or sustained engine or tyre noise that disturbs persons residing or working in the vicinity. We are a community. If you have the privilege to own and drive a motor vehicle to take you from A to B, that is what it should do. You should not use that car as a vehicle to cause harm and disturbance to others. Revving the engine of a car causes great disturbance, and it is intimidating to a lot of our elderly citizens. As I have said, they have come into my office asking for something to be done about it. Well, the member for Mawson has done something about it by introducing this measure.

I now refer to those who drive a vehicle onto an area of park or garden, whether public or private, so as to break up the ground surface and cause damage, or who drive in unauthorised races, speed trials or pursuits on a public road or place. We all know of cases where people have been involved in drag racing at traffic lights. You can imagine if they misjudge the time, the traffic light turns red and some innocent family is driving on the other road. A little 'fun' can cause a lifetime of heartache and pain for innocent people. Again, we all know of examples of that. I know of examples of that in my own electorate, where someone lost their daughter in such a case. We have to do something about it.

This bill empowers the police to issue on-the-spot fines to the driver who misuses a motor vehicle. I think that is a reasonable measure. The misuse of a motor vehicle like that is the same as speeding. In fact, it is more dangerous in many ways because a car can go out of control a lot quicker than if you are going at just 62 or 63 km/h. So, it is an important measure. After a conviction is recorded, the provisions of this bill empower the court to order the impounding of the vehicle for up to six months for a repeat offender, and the court can order the offender to pay the costs of reinstatement and repair of any damage caused. It is important.

It is a matter of taking responsibility for your actions which have endangered life and have the potential to cause great harm to the community. The sooner people get the message that a vehicle should be used responsibly, the better it will be. So, I believe that this is an important measure to remind the public of the responsibility one has when holding a licence and owning a motor vehicle.

As I said at the beginning of my contribution, often a motor vehicle can be turned into a dangerous weapon. We would not allow someone to run around with a firearm. Let us remember that someone who does not understand the capability of a motor vehicle and who does not drive it properly can do more harm than is possible with a firearm in a particular instance. So, it is important that we send that message to the community and support this bill so that that message is loud and clear.

Mr VENNING (Schubert): I will speak only briefly. I rise to support this vital bill and wish to congratulate the member for Mawson. It is a fact that a person who misuses a motor vehicle has the potential to seriously injure innocent members of the community and cause property damage. It should not be necessary to have legislation such as this, but the police do need this power to be able to control our unruly youth, and it is usually the youth who are the offenders.

I, too, have seen the black tyre marks on the roads in my district, and I have certainly been woken at night, particularly in Kapunda, where my bedroom is on the second storey overlooking the main street. I waken startled to the noise of a roaring motor, screaming tyres and thick black smoke. I have experienced this on many occasions, and the vehicle usually finishes off by darting off down the main street. I am moved to speak to this motion today because, for the last few months it has been a bit quieter in the main street of Kapunda because one of the offenders whom I often saw—

Mr Brindal interjecting:

Mr VENNING: No, worse than that; it was a fatal accident involving one of these cars. It hit a Stobie pole and the young lad died. I will not mention names, but a quick perusal of the newspaper from two months ago will show that Kapunda lost a young citizen. It was a total waste of the life of the son of a person whom I know well.

I certainly support this bill. The danger of vehicles travelling at high speeds in built-up areas certainly poses a threat to the community. I support this bill, which aims to target these offenders and to protect the rights of regional and metropolitan South Australians who are fed up with the damage caused by people who choose to drive a motor vehicle in a public place in a race between two vehicles, a

vehicle speed trial, a vehicle pursuit or any competitive trial to test drivers' skills or vehicle performance.

We know that the game of chicken still exists. The bill relates to those who operate a vehicle in a public place to produce wheel spins, burnouts, donuts—call it what you like—and those who drive a motor vehicle in a public place causing engine or tyre noise that disturbs residents or people working in the area, and those who drive a motor vehicle onto areas of parks, gardens or sporting fields, public or private, to break up the ground and cause damage.

There are so many instances whereby individuals see fit to cause a lot of damage to property by leaving burnout marks on rural roads, main roads and suburban roads, particularly on dirt roads after a period of rain. There is nothing worse than seeing a road all chopped up, after a couple of hoons (usually young) have been out there chopping it all up when conditions are slippery. There are those who drive into fences and buildings; those who rip up the turf on sports ovals, golf courses or median strips; those who rip up crops on farmers' paddocks, causing a loss of income; and also those who do 'broggies' up and down dirt roads. Generally speaking, it tends to be young people under the age of 30.

The Hon. W.A. Matthew interjecting:

Mr VENNING: The member for Bright looks at me smiling, and asks me if I ever did this. No, sir, I did not, because we did not have vehicles that were powerful enough! Also, if I had done it once in the farm ute, my father would not have given me the ute keys again. Young people will be young people, and responsible young people can certainly have their fling, but they do not need to do it in public places or where there is the possibility of causing public injury. If they do it on the farms or out on the back blocks, okay. If they know what the penalties are, it may be a deterrent for them. The maximum penalty for offenders is $2 500, which is a pretty steep penalty, with an expiation fee of $500.

If a person is convicted by a court of law of a misuse of a motor vehicle offence, the individual may be disqualified from driving for up to six months and possibly have their vehicle impounded for up to six months. That is a deterrent in itself, because nobody wants to go through the agony of sitting through the six months probation and everything else. It is a tough measure, but it is certainly in the best interests of the wider community and the young people involved. It is important legislation, as it addresses safety issues and will save lives. I hope the house supports the bill, and I certainly offer my support. If it saves lives it is well worth while. There is nothing worse than waking up startled in the middle of the night and hearing the screeching of engines and tyres and the vehicle speeding off down the main street. By the time the police arrive, there is nothing left but the smoke and black marks. I support the bill and commend the member for Mawson.

The Hon. W.A. MATTHEW (Bright): I too support this bill and in so doing congratulate my colleague the member for Mason for his foresight in the bill's preparation and for taking the step of bringing it to this chamber. The fact that the member for Mawson has brought the bill into the chamber should not surprise members, and certainly did not do so on this side, because in so doing he has done something that is consistent with the Liberal Party policy put forward at the last state election. That was to introduce a new range of offences for serious misuse of motor vehicles. The Liberal Party had an action plan and, unlike the Labor Party's various 10-point plans and other things it floated from time to time in this chamber, it was a plan of action, one of laudable intent, honesty, openness and transparency and one which, despite the dirty deal that has been done in a back room with Labor to put it into office for a period of time, has been brought forward by the member for Mawson to give South Australians greater protection against this sort of hooliganism, unacceptable behaviour and behaviour which regrettably often results in serious injury or death. In part, our action plan stated:

A Liberal government will:

- Introduce laws to create a new offence, serious misuse of a motor vehicle, to cover:
  - operating a vehicle in a public place or unauthorised public place so as to produce excessive and sustained wheel spin;
  - driving a car or motorcycle in a public or private place so as to cause excessive and sustained engine or tyre noise that disturbs persons residing or working in that vicinity;
  - driving a vehicle onto an area of park or garden (whether public or private) so as to break up the ground surface or cause damage; or
  - driving in unauthorised races, speed trials or vehicle pursuits on a public road or place.
- Empower police to issue on-the-spot fines to the driver who misuses a motor vehicle.
- Empower the court to order, after a hearing, the impounding for up to six months of a vehicle used for repeat offences and to order that offenders pay the cost of reinstatement and repair of the damage caused.

That is exactly what this bill now before the parliament does. The Summary Offences (Misuse of Motor Vehicles) Bill 2002 provides for reasonable, appropriate but heavy-handed penalties to be levied against those who abuse the law. I have no doubt that the necessity for this legislation is felt in the electorates of many members of parliament, but in the time available to me I will explain to the house the reasons that occur in my electorate for this legislation being so necessary. As members would be aware, my electorate is a coastal electorate running from Hove through to O'Sullivan Beach. It includes the popular beachside suburbs of Brighton and Seacliff and the frequently visited seaside areas of Marino and Hallett Cove.

It is fair to say that each of those areas has been subjected to unacceptable road behaviour by people who, as the member for Schubert indicated, are usually under the age of 30. People who do wheel spins, burnouts, doughnuts (or whatever terminology members like to attribute to them) all too frequently move in these areas. Recently I have been representing residents in the suburb of Seacliff, where a foreshore car park enables people using the seaside environment to park their vehicles. Regrettably, there are idiots who use that car park for unacceptable motor vehicle usage and who, when the car park is empty, put great black rings or 'doughnuts' in the area at all times of day or night. When the park is full of parked vehicles they will weave in and out of vehicles at high speed, which presents a danger to sensible vehicle users and also pedestrians.

My colleague's bill presents an opportunity for the police to act, and that is something the Sturt police tell me frustrates them. They often know who these idiots are, but they cannot take sufficient action against them to deter them from their behaviour. This bill will give the police power to enforce the law in the way South Australians would expect it to be enforced. Regrettably, as a high speed road in my electorate with the legal speed limit set at 90 kilometres per hour and in parts 100 kilometres per hour, Lonsdale Road is a source of speeding vehicles competing with each other in what amounts to road rage or road racing. Again, this provides additional police powers beyond fines for exceeding those

speed limits to impound vehicles on subsequent offences and to remove licences for up to six months. That is entirely appropriate.

Mr Acting Speaker, other members of the committee and I lamented the end result of an activity in your own electorate at Aberfoyle Park, where two young lads passed away after what would appear to be inappropriate use of vehicles on the road in that area. If this bill prevents just one such accident and saves the lives of two young people, then it is worth while. I venture to suggest that this bill has the potential to save many lives on our roads by impounding vehicles and preventing inappropriate use. I am also of the belief that other measures can be taken in other amendment bills, and indeed the government has floated the prospect of legislation that will provide some further changes to road transport provisions.

I would encourage the government to consider increasing the driving age from 16 to 18. I know that is something that is controversial amongst my rural based colleagues, but in the state of Victoria a driver's licence cannot be obtained until the age of 18. It works well in Victoria. I am a very firm believer that it could work equally well here, and I would encourage the government to look at that as a further measure to provide for greater road safety. If the government is not prepared to do it, I flag during this debate that it is my intention to look at amending legislation the government brings forward and to toughen and strengthen it by considering lifting the driving age from 16 to 18, as that will also save the lives of many young people by ensuring they are unable to have control of a motor vehicle until they are of a more sensible age.

I commend the member for Mawson for the measures he has brought forward to the house. They are consistent with Liberal Party policy at the last election. But for a dirty deal by the Labor Party, they would already have been introduced by the member for Mawson in his role as Minister for Police. It may be that if the Labor Party tries to stall this legislation the member for Mawson might have an opportunity at some time, perhaps in the not too distant future, to bring forward that bill in that capacity again. I encourage members to look at this bill for what it is and allow it to pass through this chamber as it deserves to pass.

Mrs GERAGHTY secured the adjournment of the debate.

SUMMARY OFFENCES (TATTOOING AND PIERCING) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 17 July. Page 879.)

Mr BRINDAL (Unley): The opposition is slightly indeterminate on this bill. It has been presented to our party room, but we have not had time to consider it. I apologise to the member who introduced the bill because I know that he is anxious to proceed with it, and I am told that some of the Independents also wish to proceed with it. Being a realist, as one has to be in this place, I can count on my fingers (even if I am a goose) and I realise that that means that the legislation may well proceed. I have discussed this with those of my colleagues to whom I have managed to speak in a short time. We have no particular problem with this bill as we see it given that we have not examined it in detail.

An honourable member interjecting:

Mr BRINDAL: I apologise to the honourable member, because it probably will not be voted on today. That is in the government's hands, not ours. As I have the opportunity to speak on this matter, I will just make a couple of points. As the shadow minister for youth I do not expect this legislation to be universally popular with young people, but society has traditionally reserved the right to make laws for the protection and nurture of the young. This is a matter—

The Hon. P.F. Conlon interjecting:

Mr BRINDAL: I believe the minister will introduce what he calls the prince consort amendment, but I am not sure. My father as a young man went into the Navy and he was tattooed. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

ESSENTIAL SERVICES COMMISSION BILL

The Legislative Council agreed to the bill without any amendment.

ELECTRICITY (MISCELLANEOUS) AMENDMENT BILL

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

No. 1 Page 5, line 17 (clause 10)—After 'electricity' insert:
supply

No. 2 Page 5, lines 28 to 30 (clause 10)—Leave out 'the entity will, if the Commission so directs by written notice to the entity, be taken to have entered into such an agreement with the other entity,' and insert:
the entities will, if the Commission so determines and notifies the entities in writing, be taken to have entered into such an agreement

No. 3 Page 6, line 24 (clause 11)—After 'electricity' insert:
supply

No. 4 Page 12—After line 31 insert new clause as follows:
Amendment of s. 91—Statutory declarations
21A. Section 91 of the principal Act is amended by inserting ', Electricity Supply Industry Planning Council' before 'or Technical Regulator' wherever occurring.

Consideration in committee.

The Hon. P.F. CONLON: I move:

That the Legislative Council's amendments be agreed to.

Motion carried.

STATUTES AMENDMENT (ENVIRONMENT PROTECTION) BILL

The Hon. J.D. HILL (Minister for Environment and Conservation) obtained leave and introduced a bill for an act to amend the Environment and Protection Act 1993 and the Radiation Protection and Control Act 1982. Read a first time.

The Hon. J.D. HILL: I move:

That this bill be now read a second time.

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

Leave granted.

The Labor government is committed to revamping the EPA as an independent authority and to ensure that it has the powers to enforce tougher environmental standards in South Australia.

The Statutes Amendment (Environment Protection) Bill 2002 builds upon the administrative changes that this government has already made to establish an independent and appropriately empowered EPA. It is an important step in honouring the commitments

made to the South Australian community about improved environmental protection.

The bill will establish the Board of the Environment Protection Authority and the Office of the Chief Executive of the Environment Protection Authority. It provides that the Chief Executive of the EPA will be the Chair of the Board, and clarifies that the Chief Executive is to be responsible for giving effect to the policies and decisions of the Board.

It is intended that the Chief Executive will be given powers and functions of a chief executive in respect of the EPA administrative unit established under the Public Sector Management Act. In this way Ministers will have no power to direct the staff of the Authority.

The bill provides that the Board will not have specific categories of membership but specifies the range of skills to be possessed by the members of the Board. The Board will be slightly greater in size than the current Authority, with the bill providing that it may have between 7 and 9 members.

The bill will enable the Board, without the need to seek the Minister's approval, to establish its own committees or subcommittees to advise or assist the EPA. The bill will also refine the functions of the EPA, with a focus on its regulatory role.

The Labor government is also fulfilling its promise to increase environmental penalties for those who intentionally or recklessly cause environmental harm. The bill will increase the penalty for the offence for intentionally or recklessly causing serious environmental harm from $1 million to $2 million for a body corporate and from $250 000 to $500 000 for a natural person. It will also significantly increase the penalties for intentionally or recklessly causing material environmental harm, the strict liability offences of causing serious or material environmental harm, and the offence of failure by a person to notify the EPA of causing serious or material environmental harm. In each case, the penalties are around double the current maximum fines.

This government is also following through on its commitments for tougher environmental protection by empowering the Courts to impose orders requiring a person convicted of an offence to pay any illegally obtained economic benefit (including in the form of a delayed or avoided cost) to the EPA through the bill.

Importantly, in accordance with the Labor government's plan for tougher environmental protection, the bill will make it easier for the EPA to prosecute the offences of intentionally or recklessly causing serious or material environmental harm. It will do this by simplifying the degree of knowledge that a person is required to have about the level of environmental harm that would or might result from their actions.

Also noteworthy, is that in support of the administrative changes already adopted by this government to make the EPA responsible for monitoring the State's radioactive waste storage and uranium mining industry, the bill will enable the EPA to take appropriate action on these matters under the *Environment Protection Act 1993*.

The main thrust of this bill is to enhance the initiatives already undertaken by the government to increase the independence of the EPA. It also sends clear messages to the community that the government is serious about protecting the environment and wishes to ensure that those who are reckless are properly penalised. A general review of the *Environment Protection Act* has identified a number of other areas where its effectiveness can be improved. There are also other items of government policy, including the introduction of civil penalties, which are yet to be dealt with. These matters will require consultation both within government and in the broader community. It is intended that a second bill that addresses these matters will be released for targeted consultation later this year

The Labor government is supportive of industry, but it is vital for South Australia that we also encourage industry to be environmentally responsible and punish wilful acts that harm the environment or endanger the health of our community.

The government looks forward to the support of Parliament in passing this *Statutes Amendment (Environment Protection) Bill 2002* as a key measure for the facilitation of the newly independent EPA's operations and the provision of appropriate penalties for harming the environment.

Explanation of Clauses

PART 1

PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Interpretation

This is a standard interpretation provision for a Statutes Amendment Bill.

PART 2

AMENDMENT OF ENVIRONMENT PROTECTION ACT 1993

Clause 4: Amendment of s. 3—Interpretation

This clause amends section 3 of the principal Act to insert a definition of 'Board' and of 'Chief Executive' and to make a consequential amendment to the definition of 'appointed member'.

Clause 5: Amendment of s. 7—Interaction with other Acts

This clause removes the provisions in the principal Act which currently provide that it does not apply to circumstances in which the *Pollution of Waters by Oil and Noxious Substances Act 1987* (now known as the *Protection of Marine Waters (Prevention of Pollution from Ships) Act 1987*) or the *Radiation Protection and Control Act 1982* applies.

Clause 6: Repeal of s. 12

This clause is consequential to other changes proposed in the measure (see, in particular, proposed section 14B).

Clause 7: Amendment of s. 13—Functions of Authority

This clause substitutes a new provision detailing the functions of the Authority.

Clause 8: Amendment of s. 14—Powers of Authority

This clause amends section 14 of the principal Act to reflect the new structural arrangements. The proposed provision makes it clear that if the Chief Executive of the Authority is declared, under section 13 of the *Public Sector Management Act 1995*, to have the powers and functions of Chief Executive of an administrative unit of the Public Service, the Authority may make use of the administrative unit's employees and its facilities.

Clause 9: Insertion of ss. 14A and 14B

This clause inserts two new provisions as follows:

14A. Chief Executive

This clause establishes the office of the Chief Executive of the Authority.

14B. Board of Authority

This clause establishes the Board of the Authority and details its membership.

Clause 10: Amendment of s. 15—Terms and conditions of office

This clause makes consequential amendments to section 15.

Clause 11: Amendment of s. 16—Proceedings of Board

This clause amends section 16 of the principal Act to provide that the Board must meet at least 12 time in each calendar year and to make various consequential amendments.

Clause 12: Amendment of s. 17—Board may establish committees and subcommittees

This clause removes the requirement for Ministerial approval to establish committees and subcommittees to advise or assist the Authority and makes consequential amendments to section 17.

Clause 13: Amendment of s. 18—Conflict of interests

This clause makes consequential amendments to section 18.

Clause 14: Amendment of s. 19—Round-table conference

This clause makes consequential amendments to section 19 and requires a member of the Board to attend any round-table conference that the Chief Executive of the Authority is unable to attend.

Clause 15: Amendment of s. 24—Environment Protection Fund

This clause is consequential to clause 22.

Clause 16: Amendment of s. 28—Normal procedure for making policies

This clause makes a consequential amendment to section 28.

Clause 17: Amendment of s. 79—Causing serious environmental harm

This clause amends the knowledge requirement in the offence stated in section 79(1) of the principal Act. Under the proposed amendment a person will be guilty of the offence if they caused serious environmental harm by polluting the environment and they knew that environmental harm (of any degree) would or might result from their pollution. Currently a person has to know that the environmental harm will or might be 'serious'.

The monetary penalties in both subsections (1) and (2) are also doubled.

Clause 18: Amendment of s. 80—Causing material environmental harm

This clause amends the knowledge requirement in the offence stated in section 80(1) of the principal Act. Under the proposed amendment a person will be guilty of the offence if they caused material environmental harm by polluting the environment and they knew that environmental harm (of any degree) would or might result from their

pollution. Currently a person has to know that the environmental harm will or might be 'material'.

The monetary penalties in both subsections (1) and (2) are also doubled.

Clause 19: Amendment of s. 83—Notification of incidents causing or threatening serious or material environmental harm

This clause doubles the penalties for failing to notify the Authority of an incident causing or threatening serious or material environmental harm.

Clause 20: Amendment of s. 117—Notices, orders or other documents issued by Authority or authorised officers

This clause makes consequential amendments to section 117 of the principal Act.

Clause 21: Amendment of s. 122—Immunity from personal liability

This clause makes consequential amendments to section 122 of the principal Act.

Clause 22: Amendment of s. 133—Orders by court against offenders

This clause inserts new subsections in section 133 of the principal Act allowing a court that convicts a person of an offence against the principal Act to order the convicted person to pay to the Authority the court's estimation of the amount of the economic benefit acquired by, or accrued or accruing to, the person as a result of commission of the offence. The proposed provisions also provide that an economic benefit obtained by delaying or avoiding costs will be taken to be an economic benefit acquired as a result of commission of an offence if commission of the offence can be attributed (in whole or in part) to that delay or avoidance.

Amounts paid to the Authority in accordance with such an order must be paid into the Environment Protection Fund.

PART 3
AMENDMENT OF RADIATION PROTECTION AND CONTROL ACT 1982

Clause 23: Substitution of s. 19

This clause substitutes a new confidentiality provision in the principal Act which mirrors the confidentiality provision in the *Environment Protection Act*.

Mr BRINDAL secured the adjournment of the debate.

HOLIDAYS (ADELAIDE CUP AND VOLUNTEERS DAY) AMENDMENT BILL

The Hon. M.J. WRIGHT (Minister for Industrial Relations) obtained leave and introduced a bill for an act to amend the Holidays Act 1910. Read a first time.

The Hon. M.J. WRIGHT: I move:

That this bill be now read a second time.

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

Leave granted.

This bill represents a commitment to regional development by the Rann government.

The proposal is aligned to Labor's regional development policies as outlined in the policy document 'The Economy: Growth for a Just Society'.

The bill originated from a request from the Mount Gambier Racing Club for a *local* public holiday for the Club's Gold Cup meeting, a significant regional event held annually in June. The Club proposed that the local public holiday be observed *in lieu* of the Adelaide Cup and Volunteers Day public holiday. The proposal of the Club reflects a perception in regional areas that attendance in Adelaide for the Adelaide Cup race meeting is not always practical, or that the Adelaide Cup race meeting lacks relevance for those in regional areas. Substitution of the Adelaide Cup and Volunteers Day public holiday for a day of regional significance addresses these concerns.

The Mount Gambier City Council subsequently passed a resolution supporting the proposal for a substituted public holiday for the Mount Gambier Gold Cup. The proposal has received the support of the District Council of Grant as well as the local Chamber.

General consultation on the concept of substitution of public holidays in regional areas was initiated through a discussion paper on the issue titled 'Regional Public Holidays for South Australia'.

The responses to this discussion paper show that support for the concept is very localised and is particularly strong within the country racing sector. It was assessed that take-up of the initiative would be most likely within regions remote from Adelaide.

Cabinet subsequently supported substitution of the public holiday limited to the Mount Gambier region, and for a period of two years. At the end of this period of limited operation the initiative will be evaluated and, based on this evaluation, the merits of more permanent arrangements at Mount Gambier and the potential for expansion of the concept to other regional areas will be assessed.

The key features of the initiative introduced by the Holidays (Adelaide Cup and Volunteers Day) Amendment Bill 2002 are as follows:

- the District Council of Grant and Mount Gambier City Council will be the vehicles for any application for public holiday substitution;
- in keeping with the need to evaluate the success and appropriateness of the initiative, the proposed legislation will apply a two year limit on the operation of the initiative to the Mount Gambier area;
- applications for substitution can only be made in respect of the Adelaide Cup and Volunteers Day public holiday celebrated on the third Monday in May of each year;
- at least four months notice, in advance of the date of the scheduled and proposed public holiday, is required for an application for substitution;
- substitution can only occur subject to adequate community consultation and with substantial community support;
- revised public holiday arrangements will prevail to the extent of any inconsistency over any provision of an award, determination, or enterprise or industrial agreement that operates within the affected region; and
- the Councils will be required to advertise approved substitution arrangements in local and State-wide press.

The bill is framed so that the needs and opinions of all interest groups can be included in any decision on the issue. There needs to be adequate community consultation and substantial community support before the government will recommend to the Governor a proclamation to introduce the initiative in the Mount Gambier area.

The government will bring any proposal to extend the arrangements in Mount Gambier or to expand the initiative back to Parliament, subject to a positive evaluation of the initiative.

This proposed legislation provides a sound balance between implementing a regional initiative that has substantial community support, and not adversely impacting on the Adelaide Cup day event.

The opportunity is also being taken to make drafting amendments to the Act of a statute law revision nature.

I commend the bill to honourable members.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Amendment of s. 3—Days fixed as holidays

Clause 4: Substitution of ss. 3A and 3B

Clause 5: Amendment of s. 4—Special holidays may be proclaimed

Clause 6: Amendment of s. 4A—Bank half-holidays

These clauses make amendments of a minor technical nature. The content of section 3B is brought into section 3 to clarify the meaning of those provisions. Sections 3 and 3A are redrafted so that it is clear that Sunday is always a public holiday and bank holiday. Sections 4 and 4A of the Act are made consistent with other provisions by providing that the Governor may vary or revoke proclamations made under those sections.

Clause 7: Insertion of s. 5A

This clause inserts a new section 5A in the Act. The new section 5A provides that the Governor may substitute another day as a public holiday and bank holiday for the third Monday in May, which is Adelaide Cup and Volunteers Day, in the Mount Gambier area. This allows a substitution to be made to reflect an event of regional significance, given the long distance which must be travelled from regional centres to Adelaide to attend the Adelaide Cup and associated celebrations.

An application for a substitution must be made to the Minister by a council, and the Minister must be satisfied of certain matters. The section provides that a substitution may only be made in the areas of the District Council of Grant, the City of Mount Gambier, and, in certain circumstances, an area adjacent to the District Council of Grant. Notice of a substitution must be published prior to the

relevant day. The Governor may vary or revoke a proclamation made under the section.

The section also provides that, to the extent of any inconsistency, a proclamation under the clause prevails over a provision of an award, determination, or enterprise or industrial agreement.

The section will expire two years after the day on which it comes into operation.

Schedule

The schedule makes amendments of a statute law revision nature.

Mr BRINDAL secured the adjournment of the debate.

FREEDOM OF INFORMATION (MISCELLANEOUS) AMENDMENT BILL

The Hon. J.W. WEATHERILL (Minister for Administrative Services) obtained leave and introduced a bill for an act to amend the Freedom of Information Act 1991. Read a first time.

The Hon. J.W. WEATHERILL: I move:

That this bill be now read a second time.

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

Leave granted.

It gives me great pleasure to table the Government's Freedom of Information (Miscellaneous) Amendment Bill 2002.

This bill is a key plank in the Government's 10 Point Plan for Honesty and Accountability and I would briefly like to quote the Government's policy in this area:

Labor will set new and higher standards. These standards will not be vague statements of intent, but will be enforced, and key elements will be made law. A good government does not fear scrutiny or openness. Secrecy can provide the cover behind which waste, wrong priorities, dishonesty and serious abuse of public office may occur. South Australians have learned from bitter experience how detrimental secret dealings can be to the public interest.

This policy is fundamental to the conduct and direction of this Government. Our belief in openness and accountability has driven this legislation tabled today.

In setting these high standards we are aware that as a Government we are potentially 'creating a rod for our own back'. But we know it is the right thing to do and so does the community. It is good public policy, which will bring credit to the Government and credit to all of us in this House.

This policy explains the Government's support for similar principles expressed in the Compact for Good Government.

The Compact aims to promote open and accountable government, it makes particular reference to FOI legislation and commits the Government to *'rebuild FOI legislation to give full and proper access to government documents'*.

The Compact specifically refers to restrictions relating to Cabinet and commercial confidentiality. We are pleased to report that this bill satisfies government policy and the issues identified in the Compact.

Our review of the current FOI regime has highlighted the fact that access to government information is only one aspect of the broader question of how agencies deal with members of the public.

The Government has developed a two-pronged response, the first being the legislation we have today. The second is an examination of public sector culture in which decisions are made. I intend to make an announcement shortly on non-legislative measures, which address these issues.

It is our intention that this Bill assists in establishing a culture of openness, which will make a contribution to the restoration of confidence in government and the political process.

To support this objective and to provide a more responsive and accountable FOI regime, the Bill proposes significant changes to the Freedom of Information Act.

In undertaking this review, extensive consideration was given to alternative Freedom of Information regimes in other jurisdictions including the New Zealand regime.

The proposed Bill is significantly more advanced than the New Zealand Act particularly in relation to Cabinet and Executive Council documents and commercial confidentiality, to which I will refer shortly.

In preparing this bill, consideration has also been given to the Legislative Review Committee report into FOI, which was tabled in September 2000 by the Hon Angus Redford. Whilst I acknowledge that the previous government introduced an amendment bill, it failed to act on many of the Committee's recommendations.

The Legislative Review Committee report identified that the external review process was slow and cumbersome creating a perception that existing mechanisms were being used to deliberately obstruct access to documents. The Government agrees with this statement and has streamlined the external review process.

The Committee suggested the Cabinet exemption can be used as a device for refusing to release documents that have only a peripheral connection to the Cabinet process, and that it was used to avoid release under FOI. This has also been addressed in our Bill.

Witnesses before the Committee also submitted that exemptions concerning documents affecting commercial and business affairs were too broad. This too has been addressed by this Bill.

The Committee recommended that the right of appeal to the District Court be limited to errors of law and we have adopted that recommendation.

Now turning to specific amendments proposed in the Bill.

The Bill proposes significant amendments to the status of Cabinet and Executive council documents and the use of the commercial in confidence exemption. There are further amendments in other key areas, which I will also address.

A most significant reform is proposed to the status of Cabinet and Executive Council documents, which are currently exempt from disclosure for good reason.

Confidentiality of Cabinet and Executive Council is an essential mechanism for the effectiveness of Executive Government, however it is true that not all documents contain sensitive information. Our view is that disclosure of some Cabinet and Executive Council documents will not always result in adverse consequences for the working of Government.

Hence after much consideration, the Bill proposes to disclose Cabinet and Executive Council documents, which Cabinet and Executive Council have approved for disclosure. The Minister responsible for the cabinet submission will consider the possible release of the document and then recommend to Cabinet that access should be given to the document.

In practical terms this means that a Cabinet cover sheet would include a mechanism for Cabinet to endorse whether a document is to be approved for access or not. In this way the attention of Cabinet is directed to considerations of disclosure but Cabinet retains ultimate control over its deliberations.

In addition the Bill proposes to delete reference to official records of Cabinet and Executive Council.

It became clear in our deliberations that nobody really understood the intended purpose or application of the reference. Furthermore it was considered that sufficient protection already existed for Cabinet documents. The amendment intends to eliminate the confusion as to the definition of official records of Cabinet and Executive Council.

Importantly the Bill also clarifies the status of documents attached to submissions for consideration by Cabinet or Executive Council.

There has been great concern that a practice existed under the former government where a document, which would not normally be exempt from FOI legislation, would be attached to a cabinet submission in order to give it exempt status. This is clearly unacceptable.

In order to receive exempt status a document must be specifically prepared for submission to Cabinet or Executive Council. Merely because a document is attached to a submission is not enough to give the document exempt status. The Bill reaffirms this by further limiting the potential for abuse of the cabinet confidentiality exemption.

The second area of significant reform is that of commercial confidentiality. Again the previous government's use of this exemption was cause for serious concern within the community.

A fellow Minister recalls an interesting story where as an Opposition frontbencher he repeatedly called for information from the Government about the nature of financial payments made by the Government to a company undertaking business in Adelaide. The former Government refused on the basis that the information was "commercial in confidence". It was with some surprise that the Minister found the very same information while flicking through the company's annual report.

I think the moral of the story is that in the case of the previous government, it became standard practice to invoke the commercial

in confidence exemption without any real consideration of its necessity.

Currently documents that contain confidential material, trade secrets, and commercially valuable information are exempt from disclosure. The last is subject to a public interest test.

The Bill proposes to limit the application of these exemptions by requiring that all contracts signed after the commencement of the Bill will be disclosed when requested by a FOI application.

However the exemption from disclosure will still apply if it contains a confidentiality clause, which has been approved by a Minister.

This proposal only affects the actual contract and not pre-contractual documents or documents generated in the course of the administration of the contract. Additionally, the confidentiality clause may only apply to specific provisions of the contract, leaving open the option for confidential material to be omitted and the remainder of the contract disclosed.

With this amendment we have sought to balance the practical issues associated with negotiating contracts and the desire for full disclosure. If for instance a company was to argue, and it could be demonstrated, that the publication of certain information could jeopardise an important contract, a Minister could choose to approve a clause keeping the information confidential.

The Government's proposal complements the Contract Disclosure Policy currently followed by agencies and represents a major step towards openness and accountability.

Other amendments to the bill include the following:

Objects of the Act:

The Objects of the Act have been amended to clearly reflect and articulate this government's preference for disclosure of information over non-disclosure. Whilst one may argue that the Objects already favour disclosure, we are concerned it has not always been applied by agencies when making determinations.

The Objects have also been amended to explain that the purpose of the Act is to promote openness and accountability in government and to emphasise the importance of government held information being made available to the public.

Ministerial and Agency Certificates:

The Bill removes the means to issue Ministerial and Agency Certificates. Currently a Minister or a non-government agency (local councils and universities) may issue a Certificate, which will render a document exempt from disclosure. In my view this provision introduces an unnecessary layer of secrecy into the system.

Review Authorities:

The Bill proposes to alter considerably the powers of the review authorities such as the Ombudsman and Police Complaints Authority.

The review authority will have the ability to make a decision in substitution of the determination of the agency. Currently the review authority can merely direct an agency to make a determination. To enable applications to be finalised in a timelier and less costly manner the review authority's decision may only be appealed to the District Court on a question of law.

Currently an appeal can be directed to the review authority or the District Court on merit. This gives an appellant two nearly identical appeal opportunities. Further a lack of a direct right of review can delay the process of review by requiring two steps to an eventual decision instead of one, resulting in an unjustified use of resources.

This Bill also addresses areas in the Act where clarification and confirmation of certain matters is necessary to protect privacy of individuals and to ensure that the decision-making processes of government are not impeded.

For instance:

- Protecting the personal privacy of individuals is important to this Government and not only in the area of FOI. We are currently progressing reforms to protect individuals in the land data sales area of government.
- Currently protection from disclosure of personal information is limited to 30 years. The Bill proposes to protect documents affecting personal affairs for 80 years after the document was created, a period more likely to cover the lifetime of most individuals.
- This Bill clarifies that the Act will not apply to documents or information held by an officer of an agency other than in the person's capacity as that officer. Accordingly, personal emails and other non-official documents would not be disclosed under FOI. Whilst this is arguably the current situation, the Bill provides more clarity for those using the legislation.
- An internal working document of government is exempt if it contains information reflecting opinion, advice, recommendations, consultation or deliberation which has been part of the official decision-making function and the disclosure would, on balance, be contrary to the public interest. This Bill places emphasis on the need for opinions, advice or recommendations to be expressed freely and frankly and ensures that this consideration is given due weight in applying the public interest test.
- This Bill proposes to exempt from disclosure documents prepared in the course of, and preliminary to, laying estimates of receipts and payments before the Parliament in support of an annual appropriation Act. This exemption will not require that disclosure be contrary to the public interest. There is presently an exemption available for some documents, which are relevant to the ability of the Government to manage the economy, and for documents, which might confer on someone an unfair advantage if prematurely disclosed. Currently they are only exempt if disclosure would be contrary to the public interest. Upon consideration, a clearer guide for agencies dealing with sensitive budget documents is necessary.
- Currently Members of Parliament are given access to documents without charge unless the work generated by the application exceeds a threshold presently set at $350.00 per application. I am advised this threshold is applied inconsistently across agencies and in some cases, not applied at all.

I do not see why politicians should be treated differently from the general public. I think it's very difficult to explain to an ordinary member of the public that they have to pay their $21.50 but that the Leader of the Opposition, whose salary is quite substantial, gets it for free. I do not see how constituents of Members can be disadvantaged by this move as they can apply to invoke the hardship provision to seek a remission of the fee in appropriate circumstances.

Therefore this Bill intends to remove the ability for Members of Parliament to receive access to documents without charge. The Act will not distinguish between the general public and Members of Parliament.

To ensure our commitments are upheld, the Bill proposes to introduce regular auditing and reporting functions of agency performance in administering the Act. This is complementary to the administrative changes, which I will later announce which will support the legislative reform.

In closing I welcome the contribution of all groups and individuals who have an interest in this Bill, including the members opposite. I look forward to progressing this Bill to the final stages in the interests of the community of South Australia which I believe will make a small but significant contribution to restoring trust in government and the political process.

I commend this Bill to honourable members.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Substitution of s. 3

This clause substitutes the current objects provision with two new provisions separately setting out the object of the measure and what are described as "principles of administration". The new provisions are aimed at achieving a simpler and clearer statement of the matters currently expressed in section 3.

Clause 4: Amendment of s. 4—Interpretation

This clause amends the interpretation provision of the principal Act to—

- make it clear that the term "agency" does not include an "exempt agency";
- to remove the definitions of "agency certificate" and "Ministerial certificate" (consequentially to other measures included in the Bill);
- to make it clear in the definition of "exempt agency" that an agency does not have to be entirely exempt (ie. it can be exempt in respect of certain functions or categories of information);
- to make it clear that the term "personal affairs" when used in the principal Act, only refers to natural persons;
- to make it clear that the Act only applies to official information and not personal information of agency officers (consistently with the objects of the Act).

Clause 5: Amendment of s. 20—Refusal of access

This clause removes the requirement to refuse access where a document is subject to a Ministerial or agency certificate.

Clause 6: Substitution of Part 5

This clause substitutes a new Part 5 dealing with external reviews and appeals.

PART 5
EXTERNAL REVIEW AND APPEAL
DIVISION 1—RIGHT OF EXTERNAL REVIEW

39. External review

This clause retains the power of the Ombudsman or Police Complaints Authority (the "relevant review authority") to conduct a review but changes the nature of the review and gives the relevant review authority various new powers.

Currently the relevant review authority reviews an agency's determination and then can issue directions to the agency in relation to that determination. Under the proposed provision, the relevant review authority is empowered to make its own determination in relation to the matter the subject of the review (based on the circumstances as at the time of the review) and may confirm vary or reverse the determination of the agency.

In addition the relevant review authority is empowered—

- to extend the time for making an application for review;
- to require an agency to sort or compile documents or undertake consultations relevant to the review;
- to review all applications relating to restricted documents;
- to publish reasons for a determination if it considers that to be desirable.

A relevant review authority does not, however, have the power to determine that an exempt document be released (although it can offer reasons why the agency might decide to do so) and, if an agency's determination was based on the public interest (as specified in various clauses contained in Schedule 1 of the principal Act) and the Minister makes known to the relevant review authority his or her assessment of what the public interest requires in the circumstances of the case, the relevant review authority must uphold that assessment unless satisfied that there are cogent reasons for not doing so. This is consistent with the general approach to review of administrative decisions and with the provision dealing with District Court appeals (detailed below and currently expressed in section 42(2) of the principal Act).

DIVISION 2—RIGHT OF APPEAL

40. Appeal to District Court

Under this provision, appeals to the District Court (by either the agency or any other person who is dissatisfied with the determination) will be limited to questions of law. In addition, an appeal can only be made after a review by a relevant review authority under proposed section 39. The provision in current section 42(2) of the principal Act (dealing with the determination of the "public interest") is limited to the Minister making known to the court his or her assessment of what is required in the particular case (current section 42(2), by contrast, extends this power to councils in appropriate cases).

41. Consideration of restricted documents

This clause—

- allows the District Court to declare a closed court for the purpose of considering a restricted document on an appeal; and
- allows the court to require production of such a document; and
- requires the court to allow the Minister a reasonable opportunity to appear and be heard in relation to an appeal involving a restricted document.

Clause 7: Repeal of s. 46

This clause repeals section 46 which deals with Ministerial and agency certificates.

Clause 8: Amendment of s. 53—Fees and charges

This clause would remove paragraph *(b)* of subsection (2). That paragraph currently requires the regulations to provide for access to documents by Members of Parliament without charge (unless the work generated by the application exceeds a threshold stated in the regulations).

Clause 9: Amendment of s. 54—Reports to Parliament

This clause repeals subsections (2) and (3) consequentially to the removal of Ministerial and agency certificates from the Act and the insertion of section 54AA (discussed below).

Clause 10: Insertion of s. 54AA

This clause inserts a new provision requiring agencies to provide information to the Minister.

54AA. Provision of information to Minister

This proposed clause requires agencies to provide the Minister with information for the purpose of monitoring compliance with the Act and for the purpose of preparing reports to the Parliament under section 54.

Clause 11: Amendment of Sched. 1

This clause makes various amendments to schedule 1 of the principal Act (dealing with exempt documents) as follows:

- Clauses 1 and 2 are amended to clarify the meaning of the clauses (by making it clear that an attachment to a Cabinet or Executive Council submission that would not otherwise be exempt does not become exempt merely by being so attached) and to allow Cabinet or Executive Council to determine that a document that would otherwise be exempt under either of those clauses may be released.
- Clause 6 is amended to extend the exemption relating to person affairs to 80 years from the date the document was created (from the current 30 years);
- Clause 7 is amended so that contracts entered into by an agency or the Crown after the date of the amendment are not exempt under this clause.
- Clause 9 is amended to clarify the application of the public interest test to internal working documents.
- Clause 13 is amended so that contracts entered into by an agency or the Crown after the date of the amendment are not exempt under this clause unless it is a term of the contract that disclosure (of the contract or of parts of the contract) would be a breach of the contract and that term has been approved by—
- in the case of a contract entered into by the Crown—a Minister; or
- in the case of a contract entered into by a State Government agency—the Minister responsible for the agency; or
- in the case of a contract entered into by a non-State Government agency (ie. a Council or a University)—the agency.

A Minister may delegate the power to approve a term of a contract (but such a delegation may be made subject to conditions or limitations and may be revoked at any time).

Where such a term of a contract has been approved, the Minister or agency who gave the approval must notify the Minister administering the principal Act and the number of such contracts must be stated in the annual report to Parliament under section 54 of the principal Act.

- Clause 14 is amended to specifically exempt documents prepared for the purpose of processes involved in preparing the estimates of receipts and payments laid, or to be laid, before Parliament in support of an annual Appropriation Act (within the meaning of the *Public Finance and Audit Act 1987*).

Clause 12: Transitional provision

This clause makes provisions of a transitional nature—

- to apply the amendments contained in the measure (other than proposed new Part 5) to applications, reviews and appeals to be determined after the commencement of the measure; and
- To ensure that the amendments to clause 6(4) of Schedule 1 (which increases the duration of the personal affairs exemption from 30 years to 80 years) will apply to a document that is more than 30 years old if the application for access, review or appeal relating to the document is determined after the commencement of the measure.

Mr BRINDAL secured the adjournment of the debate.

[Sitting suspended from 5.59 to 7.30 p.m.]

STATUTES AMENDMENT (HONESTY AND ACCOUNTABILITY IN GOVERNMENT) BILL

In committee.

Clauses 2 to 4 passed.

Clause 5.

Ms CHAPMAN: We have not had an opportunity to consider all these matters. I would like to go through the bill on the basis that we stop at each of the clauses where an amendment has been made. Today, I have had the opportunity to speak briefly to a government representative for a briefing. However, I was not able to cover each clause, so I would like the opportunity to go through each of the clauses.

I think the first amendment is to clause 6, if I am correct, so we can move on.

Clause passed.

New clauses 5A and 5B.

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

After Part 2—Insert:

PART 2A

AMENDMENT OF INDUSTRIAL AND EMPLOYEE RELATIONS ACT 1994

Amendment of s. 4—Interpretation

5A. Section 4 of the principal Act is amended by striking out paragraph (a) of the definition of 'public employee' in subsection (1) and substituting the following paragraph:

(a) a public sector employee, within the meaning of the Public Sector Management Act 1995, employed under, or subject to, that Act; or

Amendment of s.36—Remuneration and conditions of office

5B. Section 36 of the principal Act is amended by striking out from subsection (1)(b) 'Part 3 of the *Government Management and Employment Act 1985'* and substituting 'the *Public Sector Management Act 1995.'*

I appreciate the support of my esteemed and learned colleague opposite.

New clauses inserted.

Clause 6.

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

Page 5—

Lines 7 to 11—Leave out paragraph (b).

Lines 24 to 26—Leave out proposed paragraph (b) and insert:

(b) an executive position declared to be a senior executive's position by the corporation's Minister by notice in the *Gazette* (which notice may be varied or revoked by subsequent notice in the *Gazette)*;

Amendments carried; clause as amended passed.

Clause 7 passed.

Clause 8.

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

Page 6, line 4—After "(3)" insert:

and substituting the following subsection:

(2) Subsection (1) does not apply to conduct that is merely of a trivial character and does not result in significant detriment to the public interest.

Ms CHAPMAN: This amendment proposes to restrict the duty to act honestly and not to commit any offence if the conduct is merely of a trivial character. I have no issue with that, because there is plenty on that. I refer to the words 'but not as a result of any significant detriment to the public interest'. Would the Premier outline what he has in mind with the words 'significant detriment'. We have been a little pressed for time on this, but 'significant detriment' is not defined. What does the Premier think is meant by that term?

The Hon. M.D. RANN: As I understand it, it depends on the facts relating to each particular case, and that is why it has been struck broadly. I am sorry not to be of more help than that, but that, as I understand it, was the best possible terminology. There could be a financial detriment and there could also be some other kind of detriment, but it was struck in this way so that it could be determined on the basis of the facts contributing to the cause.

Ms CHAPMAN: I appreciate the Premier's frankness in that response and the sentiment of trying to minimise the obligation so as to not attract a penalty or a conviction in the duty not to act honestly, where it might be of a minor nature. Without being able to define it more clearly, can the Premier give me an example, or more than one, of where he would see conduct which was dishonest and both trivial and of insignificant detriment to the public interest?

The Hon. M.D. RANN: It could be referring to someone who perhaps has not told the truth about their time clock, or something like that. So, it is not regarded as being a capital offence but is still dishonest and subject to disciplinary proceedings.

Amendment carried; clause as amended passed.

New clause 8A.

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

After clause 8—Insert:

Amendment of s.17—Transactions with directors or associates of directors

8A. Section 17 of the principal Act is amended by inserting after paragraph (a) of subsection (3) the following paragraph:

(ab) to the employment of a person under a contract of service with the corporation or a subsidiary of the corporation or to a transaction that is ancillary or incidental to such employment; or.

New clause inserted.

Clauses 9 and 10 passed.

Clause 11.

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

Page 6, after line 24 (proposed section 36A)—Insert:

(1a) Subsection (1) does not apply to conduct that is merely of a trivial character and does not result in significant detriment to the public interest.

Amendment carried; clause as amended passed.

Clause 12 passed.

Clause 13.

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

Page 9, line 17—After 'employment' insert:

but this does not derogate from any statutory provisions or other law governing the process for discipline or termination of employment of an employee.

This amendment clarifies that, whilst non-compliance with the provision renders an employee of a public corporation liable to termination of employment, existing laws for a determination of employment still apply.

Amendment carried; clause as amended passed.

Clause 14.

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

Page 10, line 9—After '5' insert:

and substituting the following subclause:

(2) Subclause (1) does not apply to conduct that is merely of a trivial character and does not result in significant detriment to the public interest.

This provision amends the existing 'duty to act honestly' provision in the schedule; the principal act applying to directors of subsidiaries of public corporations; and stipulates that, where the conduct is trivial and does not result in significant detriment to the public interest, the provision does not apply; hence no offence is committed. With the concurrence of my learned friend, I will move those series of clause 14 amendments standing in my name.

Ms CHAPMAN: Looking at all of those it seems that they all relate to subsidiaries. Is that correct?

The Hon. M.D. RANN: Yes.

Ms CHAPMAN: I have no objection.

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

Page 10—

After line 9—Insert:

ab) by inserting after paragraph (a) of clause 6(3) the following paragraph:

(ab) to the employment of a person under a contract of service with the subsidiary, its parent corporation or any other subsidiary of the corporation or to a transaction that is ancillary or incidental to such employment; or

After line 24—(proposed clause 14A)—Insert:

(1a) Subclause (1) does not apply to conduct that is merely of a trivial character and does not result in significant detriment to the public interest.

Page 13, line 16—After 'employment' insert:

but this does not derogate from any statutory provisions or other law governing the process for discipline or termination of employment of an employee.

Amendments carried; clause as amended passed.

Clause 15.

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

Page 14, after line 10—Insert:

aa) by inserting after paragraph (f) of the definition of 'administrative decision' in subsection (1) the following paragraph:

(g) the Director of Public Prosecutions when acting under section 79A;

This is about the definition of 'administrative decision' as amended to prevent a challenge under the grievance appeal provisions of the principal act to a decision by the DPP to consent or refuse to consent to prosecution under the principal act; and I think this stems from negotiations with a number of parties, including the PSA.

Amendment carried.

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

Page 14—

After line 12—Insert:

'advisory body' means an unincorporated body comprised of members appointed by the Governor or a Minister (whether or not under an Act) with a function of providing advice to a public sector agency;

After line 15—Insert:

'contractor' does not include a public sector agency;

'contract work' means work performed by a person as a contractor or as an employee of a contractor or otherwise directly or indirectly on behalf of a contractor, but does not include work performed as a member of an advisory body;

'corporate agency executive' means a person who is employed by a public sector agency that is a body corporate and is concerned or takes part in the management of the agency;

'corporate agency member' means—

(a) a member of a public sector agency that is a body corporate; or

(b) a member of the governing body of a public sector agency that is a body corporate;

Lines 27 to 34—Leave out paragraph (f).

Page 15, lines 7 to 19—Leave out the definition of'relevant Minister' and insert:

'relevant Minister' means—

(a) in relation to a public sector agency—

(i) in the case of an agency that is a Minister—that Minister; or

(ii) in the case of an agency (other than an incorporated Minister) established under an Act other than this Act—the Minister responsible for the administration of the Act; or

(iii) in any other case—the Minister responsible for the agency; or

(b) in relation to a corporate agency member or corporate agency executive—the relevant Minister in relation to the agency; or

(c) in relation to an advisory body member—the relevant Minister in relation to the public sector agency to which the body provides advice; or

(d) in relation to a senior official or employee—

(i) in the case of the Commissioner or the Deputy Commissioner for Public Employment—the Minister responsible for the administration of this Act; or

(ii) in the case of a senior official or employee appointed by a Minister—that Minister; or

(iii) in any other case—the relevant Minister in relation to the agency by or in which the senior official or employee is employed; or

(e) in relation to a person performing contract work—

(i) for a public sector agency—the relevant Minister in relation to the agency; or

(ii) for the Crown—the Minister responsible for the administration of this Act;;

Page 16, line 26—After'agency' insert:

(being a position established by an Act or an executive position)

Amendments carried; clause as amended passed.

Clause 16 passed.

Clause 17.

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

Page 16, line 37—After'Commissioner' insert:

and published in the *Gazette*

The amendment imposes a requirement upon the Commissioner for Public Employment to publish any code of conduct in the *Gazette* so that we can ensure transparency and information exchange. This amendment has been introduced following concerns raised by the Liberal opposition that it might otherwise be difficult for employees to ascertain which code was in force from time to time. I thought it was a very sensible suggestion from the opposition.

Ms CHAPMAN: I am not quite sure how many members of the Public Service Association are going to read the *Gazette*, but the notice has at least been given and I appreciate that, and I think it is a very important addition.

Amendment carried; clause as amended passed.

Clause 18.

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

Page 17, line 19—Leave out 'If' and insert:

The copy of the report to be laid before Parliament must set out in a prominent position the date on which it was presented to the relevant Minister and if

The bill was amended so as to require annual reports tabled in parliament to specify the date upon which the reports were presented to the relevant minister. The practical effect is that it will become evident where a minister has failed to table a report on time through his or her slackness, and this amendment has been introduced in light of recommendations by the Statutory Authorities Review Committee in its 2001 report. This is about making sure that ministers lift their game.

Ms CHAPMAN: I thank the Premier for ensuring some enforcement to ensure that ministers are not deleterious in their duty. I just wonder what the penalty is for failing to lodge the report on time.

The Hon. M.D. RANN: There is no penalty in terms of a fine or a loss of office, but there is a political penalty, because it means that by moving this amendment the government is essentially offering the opposition a stick with which to beat our heads; and sometimes that can be healthy. It is essentially a political birching clause.

Amendment carried.

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

Page 17, lines 30 to 33 (proposed section 6C)—Leave out proposed subsection (1).

This amendment deletes the definition of corporate agency member, and this definition has been relocated to the definition section of the principal act, as I think was appropriate.

Amendment carried.

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

Page 17, after line 36—Insert:

Duty of corporate agency members to exercise care and diligence

6CA. (1) A corporate agency member must at all times exercise a reasonable degree of care and diligence in the performance of his or her functions.

(2) If a corporate agency member is culpably negligent in the performance of his or her functions, the member is guilty of an offence.

Penalty:Division 4 fine.

(3) A corporate agency member is not culpably negligent for the purposes of subsection (2) unless the court is satisfied the member's conduct fell sufficiently short of the standards required under this Act of the member to warrant the imposition of a criminal sanction.

(4) A corporate agency member does not commit any breach of duty under this section by acting in accordance with a direction or requirement of the relevant Minister.

This amendment introduces an obligation upon corporate agency members to exercise due care and diligence. In essence, the amendment mirrors existing provisions in the Public Corporations Act for directors of boards. So, we already have similar provisions in place in terms of the Public Corporations Act for directors of boards. When the bill was first drafted, such a provision was considered unworkable and/or unnecessary. It has now been included following reconsideration and consultation. For instance, an example of a corporate agency member, as opposed to the boards that I was just referring to that were forced to comply under the existing provisions of the Public Corporations Act, would be the Environment Protection Authority.

Ms CHAPMAN: Could the Premier identify who has called for this addition?

The Hon. M.D. RANN: Essentially it came about through officers in crown law and elsewhere in my own department, who, as I understand it, when they were going through the other amendments felt that this was a sensible provision and would thereby be inclusive of agencies such as the Environment Protection Authority.

Amendment carried.

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

Page 18, after line 4, (proposed section 6D)—Insert:

(2) Subsection (1) does not apply to conduct that is merely of a trivial character and does not result in significant detriment to the public interest.

This provision amends the duty to act honestly provision proposed in respect of corporate agency members to stipulate that where the conduct is trivial and does not result in significant detriment to the public interest, and the provision does not apply, no offence is therefore committed. This amendment has been made in the light of concerns raised by the Public Service Association.

Ms CHAPMAN: I have already highlighted our concern about the definition on this matter, but I appreciate that the Premier has clearly attempted in these amendments (of which there are several) to ensure that we do not overburden with minor or trivial matters the obligations of those who are sought to be captured by this legislation.

The Hon. M.D. RANN: I appreciate those points. I move:

Page 18, after line 20—Insert:

(ab) to the employment of a person under a contract of service with the agency or a subsidiary of the agency or to a transaction that is ancillary or incidental to such employment; or

This amendment clarifies that the prohibition concerning unauthorised transactions by corporate agency members and their associates does not apply to transactions related to the employment of a person. This amendment is proposed following feedback from the Department of Human Services. I think it is a sensible one because many employees are on boards.

Amendments carried.

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

Page 21, after line 11—Insert:

DIVISION 3A—DUTIES OF ADVISORY BODY MEMBERS

Duty of advisory body members to act honestly

61A. (1) An advisory body member must at all times act honestly in the performance of the functions of his or her office, whether within or outside the state.

Penalty: Division 4 fine or division 4 imprisonment, or both.

(2) Subsection (1) does not apply to conduct that is merely of a trivial character and does not result in significant detriment to the public interest.

Duty of advisory body members with respect to conflict of interest

61B. (1) An advisory body member who has a direct or indirect personal or pecuniary interest in a matter decided or under consideration by the body—

(a) must, as soon as reasonably practicable, disclose in writing to the relevant minister full and accurate details of the interest; and

(b) must not take part in any discussion by the body relating to that matter; and

(c) must not vote in relation to that matter; and

(d) must be absent from the meeting room when any such discussion or voting is taking place.

Penalty: Division 4 fine.

(2) Without limiting the effect of this section, an advisory body member will be taken to have an interest in a matter for the purposes of this section if an associate of the advisory body member has an interest in the matter.

(3) This section does not apply in relation to a matter in which an advisory body member has an interest while the member remains unaware that he or she has an interest in the matter, but in any proceedings against the advisory body member the burden will lie on the advisory body member to prove that he or she was not, at the material time, aware of his or her interest.

(4) The relevant minister may, by notice published in the *Gazette*, exempt an advisory board member (conditionally or unconditionally) from the application of a provision of this section, and may, by further notice published in the *Gazette*, vary or revoke such an exemption.

Removal of advisory body members

61C. Non-compliance by an advisory body member with a duty imposed by this division constitutes a ground for removal of the member from office.

Civil liability for contravention of division

61D. (1) If a person who is an advisory body member or former advisory body member is convicted of an offence for a contravention of this division, the court by which the person is convicted may, in addition to imposing a penalty, order the convicted person to pay to the relevant minister—

(a) if the court is satisfied that the person or any other person made a profit as a result of the contravention—an amount equal to the profit; and

(b) if the court is satisfied that any loss or damage has been suffered as a result of the contravention—compensation for the loss or damage.

(2) If a person who is an advisory body member or former advisory body member is guilty of a contravention of this division, the relevant minister may (whether or not proceedings have been brought for the offence) recover from the person by action in a court of competent jurisdiction—

(a) if the person or any other person made a profit as a result of the contravention—an amount equal to the profit; and

(b) if any loss or damage has been suffered as a result of the contravention—compensation for the loss or damage.

This amendment introduces division 3A 'Duties of advisory body members' in part 2 of the principal act. This division has been introduced to capture those who provide advice to public sector agencies as members of an unincorporated body appointed by the Governor or a minister, whether or not established by statute. I am talking about bodies such as the Economic Development Board, the board of my social inclusion initiative, or, indeed, the Science and Innovation Council. All these would fall into that category.

This amendment is in recognition of the existence of a number of very important and, in some cases, highly paid advisory bodies—some are not paid at all, but others such as the Economic Development Board members are paid some tens of thousands of dollars a year—who would not otherwise be subject to statutory obligations regarding honesty and

conflict of interest. Of course, in relation to the Economic Development Board (and as members know its members are high status people from around the nation, people such as Robert Champion de Crespigny, Fiona Roche, Carolyn Hewson, Hon. Robert James Lee Hawke and others), we want to ensure that all these people, given that they will be making recommendations in terms of the economic direction of the state, be subject to statutory obligations regarding honesty and conflict of interest.

By definition, the obligations introduced by this division also extend to advisory body members and to public corporations and subsidiaries who are appointed by the minister or the Governor. I refer also to the Economic Development Board, if it was to have a subsidiary. Many people think of boards as being simply those statutory corporations such as the Housing Trust and SA Water, but there are so many advisory boards throughout government. I refer also, for instance, to boards such as the board of the International Film Festival that are not statutory corporations but are important bodies making important recommendations to ministers and to cabinet, and we think it is important that they be covered.

Ms CHAPMAN: We may have some more to say about this between this place and another place, but can I say that whilst the principle (which I think have enunciated in our presentation on the substantive bill) of the general concept of acting honestly is something that we support—and I note the qualifications that have been incorporated in these amendments—advisory board members are persons who are often not paid and, as the Premier has outlined in his examples, can avail themselves of payment. Mr De Crespigny was one person who was used as an example and who, I understand, has declined the government's kind offer to receive remuneration for his advice. Quite frankly, he is likely to be in a circumstance where he would have a potential conflict of interest on a number of matters.

That is the very reason why they are in the industry or involved in the area on which the minister seeks to have them for advice, and their position in the business world or employment world, on the face of it, would disclose that, in any event. As I say, that is often the very reason why they are asked to make a contribution at an advisory level. I highlight the concern that, given that contribution (generous as often it is for those who sit as advisory body members), there remains an onus for the member to have the responsibility, the specific burden, to establish that they do not have a conflict of interest and that they must prove that they were not at the material time aware of their interest.

Perhaps more concerning in this area, as we have highlighted this previously, is the extension of the obligation to disclose if there is any associate of the advisory body. I have already spoken about the definition of 'associate', and I think my previous comments sufficiently cover that. With those cautions, I indicate that I have no questions.

The Hon. M.D. RANN: I know that during the consultation phase concerns were raised about whether this would, in some way, deter people from serving on advisory boards, whether paid or unpaid. Of course, the honourable member is correct, in the case of someone such as Robert Champion de Crespigny, who declined to accept any payment for his extraordinary commitment of 40 to 50 hours a week. I offered him a dollar a year and he told me that was too much. David Cappo, Vicar-General of the Catholic Church, refused payment in his position where he is spending an enormous amount of time as chair of the social inclusion initiative. Cheryl Bart, who is on the board of the EDB and who is paid for that position but who has also accepted the position of the chair of the International Film Festival, from memory, is not paid for that position.

I do not believe that any of the people we have been approached—Carolyn Hewson, Fiona Roche or others—would be deterred by these provisions as they have been directors of other companies and are well aware of the obligations upon them. There have been a number of instances. It would be inappropriate for Robert de Crespigny, when he was a director of AMC, the magnesium company, to give me advice about SAMAG, and he does not. He recognises that, although I understand he is no longer involved with the company, that would have been a conflict of interest. Scott Hicks is on the board of the EDB. I am sure that Scott Hicks would be the first, having been a director of companies, to recognise that it would be inappropriate for him, whilst we want him there for his skills in the film industry, if he was to be involved in recommending funding for a company with which he was associated.

In many ways this is a protection for members. We announced before the election that we intended to apply these principles to government boards and advisory bodies: that was well known, and so far the feedback we have received has been that the amendments are welcomed. The duties proposed for corporate agency members mirror the existing obligations that directors of public corporations, such as SA Water, the Lotteries Commission and the Housing Trust, are subject to. The obligations proposed for advisory body members are less onerous than for directors, given their lesser sphere of influence in terms of making recommendations as opposed to making decisions. There is no evidence to suggest that the obligations of directors have deterred people from accepting appointments to public corporations—quite the opposite.

The amount of lobbying from people, as members opposite would know from being in government, wanting to serve on statutory authority boards, whether paid or not, is great because they have a commitment of service to our state. There has been no basis for suggesting that the obligations are such that people are deterred from going on the boards of the Lotteries Commission, SA Water or the Housing Trust under the existing provisions, which are more onerous—indeed, quite the opposite. Accordingly, there is no basis for suggesting that the obligations proposed would deter potential members of other government boards or advisory bodies. The government recognises that it is necessary to balance inconvenience to an individual against the need for propriety and accountability and believes these amendments achieve that balance. I am grateful for the honourable member's support.

Ms CHAPMAN: The Premier's reply prompts a question. How many, if any, advisory board members have been shown a copy of the proposed division 3A?

The Hon. M.D. RANN: There has been no specific offering of that amendment, but I publicly announced this before the election and subsequent to the election. We understand that during the process of consultation with a number of agencies that have advisory bodies, such as government departments, these provisions were welcomed.

Amendment carried.

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

Page 21, after line 19 (proposed section 6K)—insert:

(2) Subsection (1) does not apply to conduct that is merely of a trivial character and does not result in significant detriment to the public interest.

This provision amends the 'duty to act honestly' provisions applying to senior officials, to stipulate that, where the conduct is trivial and does not result in significant detriment to the public interest, the provision does not apply, hence no offence is committed. This is sensible because, as my learned colleague opposite mentioned before, we do not want to clog up the system with stupid provisions but simply make sure that dishonesty is fought at every turn.

Amendment carried.

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

Page 22, after line 38—Insert:

DIVISION 4A—DUTIES OF CORPORATE AGENCY EXECUTIVES

Application of Division

6MA. (1) This Division does not apply to a corporate agency executive if provisions of the *Public Corporations Act 1993* apply to the public sector agency.

(2) Sections 6MB and 6ME do not apply to a corporate agency executive who is a senior official.

Duty of corporate agency executives to act honestly

6MB. (1) A corporate agency executive must at all times act honestly in the performance of his or her duties, whether within or outside the State.

Penalty:Division 4 fine or division 4 imprisonment, or both.

(2) Subsection (1) does not apply to conduct that is merely of a trivial character and does not result in significant detriment to the public interest.

Duty of corporate agency executives not to be involved in unauthorised transactions with agency or subsidiary

6MC. (1) Neither a corporate agency executive nor an associate of a corporate agency executive may, without the approval of the relevant Minister, be directly or indirectly involved in a transaction with the agency or any subsidiary of the agency.

(2) A person will be treated as being indirectly involved in a transaction for the purposes of subsection (1)—

(a) if the person initiates, promotes or takes any part in negotiations or steps leading to the making of the transaction with a view to that person or an associate of that person gaining some financial or other benefit (whether immediately or at a time after the making of the transaction); and

(b) despite the fact that neither that person nor an agent, nominee or trustee of that person becomes a party to the transaction.

(3) Subsection (1) does not apply—

(a) to the provision of services by the agency or any subsidiary of the agency in the ordinary course of its ordinary business and on ordinary terms; or

(b) to the employment of a person under a contract of service with the agency or a subsidiary of the agency or to a transaction that is ancillary or incidental to such employment; or

(c) to transactions of a prescribed class.

(4) If a transaction is made with an agency or any subsidiary of the agency in contravention of subsection (1), the transaction is liable to be avoided by the agency or by the relevant Minister.

(5) A transaction may not be avoided under subsection (4) if a person has acquired an interest in property the subject of the transaction in good faith for valuable consideration and without notice of the contravention.

(6) A corporate agency executive must not counsel, procure, induce or be in any way (whether by act or omission or directly or indirectly) knowingly concerned in, or party to, a contravention of subsection (1).

Penalty:If an intention to deceive or defraud is proved—Division 4 fine or division 4 imprisonment, or both.

In any other case—Division 6 fine.

Duty of corporate agency executives not to have unauthorised interest in agency or subsidiary

6MD. (1) Neither a corporate agency executive nor an associate of a corporate agency executive may, without the approval of the relevant Minister—

(a) have or acquire a beneficial interest in shares in, debentures of or managed investment schemes of the agency or any subsidiary of the agency; or

(b) have or hold or acquire (whether alone or with another person or persons) a right or option in respect of the acquisition or disposal of shares in, debentures of or interests in managed investment schemes of the agency or any subsidiary of the agency; or

(c) be a party to, or entitled to a benefit under, a contract under which a person has a right to call for or make delivery of shares in, debentures of or interests in managed investment schemes of the agency or any subsidiary of the agency.

(2) A corporate agency executive must not counsel, procure, induce or be in any way (whether by act or omission or directly or indirectly) knowingly concerned in, or party to, a contravention of subsection (1).

Penalty: If an intention to deceive or defraud is proved—Division 4 fine or division 4 imprisonment, or both.

In any other case—Division 6 fine.

Duty of corporate agency executives with respect to conflict of interest

6ME. (1) If a corporate agency executive has a pecuniary or other personal interest that conflicts or may conflict with the executive's duties, the executive must disclose in writing to the agency the nature of the interest and the conflict or potential conflict.

(2) A corporate agency executive must comply with any written directions given by the agency to resolve a conflict between the executive's duties and a pecuniary or other personal interest.

(3) Without limiting the effect of this section, a corporate agency executive will be taken to have an interest in a matter for the purposes of this section if an associate of the executive has an interest in the matter.

(4) Failure by a corporate agency executive to comply with this section constitutes grounds for termination of the executive's employment (but this does not derogate from any statutory provisions or other law governing the process for discipline or termination of employment of an employee).

(5) If a corporate agency executive makes a disclosure of interest under subsection (1) in respect of a proposed contract—

(a) the contract is not liable to be avoided; and

(b) the executive is not liable to account for profits derived from the contract.

(6) If a corporate agency executive fails to make a disclosure of interest under subsection (1) in respect of a proposed contract, the contract is liable to be avoided by the relevant Minister.

(7) A contract may not be avoided under subsection (6) if a person has acquired an interest in property the subject of the contract in good faith for valuable consideration and without notice of the contravention.

(8) This section does not apply in relation to a conflict or potential conflict between a corporate agency executive's duties and a pecuniary or other personal interest while the executive remains unaware of the conflict or potential conflict, but in any proceedings against the executive the burden will lie on the executive to prove that he or she was not, at the material time, aware of the conflict or potential conflict.

Civil liability for contravention of Division

6MF. (1) If a person is convicted of an offence against this Division, the court by which the peron is convicted may, in addition to imposing a penalty, order the convicted person to pay to the relevant Minister—

(a) if the court is satisfied that the person or any other person made a profit as a result of the contravention—an amount equal to the profit; and

(b) if the court is satisfied that any loss or damage has been suffered as a result of the contravention—compensation for the loss or damage.

(2) If a person contravenes this Division, the relevant Minister may (whether or not proceedings have been brought for an offence) recover from the person by action in a court of competent jurisdiction—

(a) if the person or any other person made a profit as a result of the contravention—an amount equal to the profit; and

(b) if any loss or damage has been suffered as a result of the contravention—compensation for the loss or damage.

This amendment introduces a new division 4A in part 2 of the principal act relating to duties of corporate agency executives. Corporate agency executives are employees who take part in

the management of a public sector agency that is a body corporate. For instance, to use the typical example of the Environment Protection Authority, the provisions proposed regarding unauthorised transactions and unauthorised interest mirror existing provisions in the Public Corporations Act for executives. The provisions regarding honesty and conflict of interest mirror the provisions proposed in the bill for employees. However, where a corporate agency executive is also a senior official—division 4—then that division applies rather than division 4A as regards the duty to act honestly and the duty with respect to conflict of interest. This ensures that all senior officials have the same obligations in this regard.

When the bill was originally drafted, corporate agency executives were covered by definition under division 5—Duties of employees of division 4; or division 4—Duties of senior officials. However, these divisions do not contain provisions addressing unauthorised transactions and unauthorised interest because it is considered too onerous to require public sector employees and their associates to refrain from transacting with and holding interests in the whole public sector. The new division ensures that executives of public sector agencies that are bodies corporate and their associates are under the same obligations as executives of public corporations and subsidiaries as regards transacting with and holding interests in the body corporate by which they are employed. That is as plain as mud—in locus secondi.

Amendment carried.

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

Page 23, line 3 (proposed section 6N)—After'Division 4' insert:
, Division 4A

Page 23, after line 8 (proposed section 6O)—Insert:

(2) Subsection (1) does not apply to conduct that is merely of a trivial character and does not result in significant detriment to the public interest.

Page 23, lines 12 and 13 (proposed section 6P)—Leave out'chief executive of the public sector agency by or in which the employee is employed' and insert:

relevant authority

Page 23, lines 14 to 16 (proposed section 6P)—Leave out proposed subsection (2) and insert:

(2) A public sector employee must comply with any written directions given by the relevant authority to resolve a conflict between the employee's duties and a pecuniary or other personal interest.

Page 23, line 20 (proposed section 6P)—Leave out '(other than an employee to whom Part 8 applies)'.

Page 23, line 22—After'employment' insert:

(but this does not derogate from any statutory provisions or other law governing the process for discipline or termination of employment of an employee)

Page 23, after line 37 (proposed section 6P)—Insert:

(9) In this section—

'relevant authority' means—

(a) in relation to an employee employed by or in a public sector agency with a chief executive (or acting chief executive)—the chief executive (or acting chief executive) of the agency; or

(b) in any other case—the relevant Minister or the nominee of the relevant Minister.

Amendments carried.

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

Page 24, line 9—Leave out 'section, the relevant minister may' and insert:

Division, the relevant minister may (whether or not proceedings have been brought for an offence)

This amendment corrects a drafting error and brings the provision in line with other provisions in the bill, for example, the proposed new section 6M(2), and I apologise that I did not pick this up when I was perusing the bill originally. I spent many sleepless nights reading this legislation. I found it to be a cure for my insomnia, but I did not pick up this provision relating to proposed 6M(2) and therefore I am correcting a drafting error which, if I had paid more attention, I should have picked up when I was giving crown law the scrutiny that it deserves.

Amendment carried.

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

Page 24, after line 14—Insert:

DIVISION 6—DUTIES OF PERSONS PERFORMING CONTRACT WORK

Duty of persons performing contract work to act honestly

6R.(1) A person performing contract work for a public sector agency or the Crown must at all times act honestly in the performance of that work, whether within or outside the State.

Penalty: Division 4 fine or division 4 imprisonment, or both.

(2) Subsection (1) does not apply to conduct that is merely of a trivial character and does not result in significant detriment to the public interest.

Duty of persons performing contract work with respect to conflict of interest

6S.(1) If a person performing contract work for a public sector agency or the Crown has a pecuniary or other personal interest that conflicts or may conflict with duties that the person has in that capacity and the conflict relates to a contract or proposed contract binding the agency or the Crown (other than the contract for the performance of the contract work), the person must—

(a) disclose in writing to the relevant authority the nature of the interest and the conflict or potential conflict; and

(b) not take action or further action in relation to the matter except as authorised in writing by the relevant authority.

Penalty: Division 4 fine.

(2) Without limiting the effect of this section, a person will be taken to have an interest in a matter for the purposes of this section if an associate of the person has an interest in the matter.

(3) If a person performing contract work for a public sector agency or the Crown makes a disclosure of interest under subsection (1) in respect of a proposed contract—

(a) the contract is not liable to be avoided; and

(b) the person is not liable to account for profits derived from the contract.

(4) If a person performing contract work for a public sector agency or the Crown fails to make a disclosure of interest under subsection (1) in respect of a proposed contract, the contract is liable to be avoided by the relevant Minister.

(5) A contract may not be avoided under subsection (4) if a person has acquired an interest in property the subject of the contract in good faith for valuable consideration and without notice of the contravention.

(6) This section does not apply in relation to a conflict or potential conflict between a person's duties and a pecuniary or other personal interest while the person remains unaware of the conflict or potential conflict, but in any proceedings against the person the burden will lie on the person to prove that he or she was not, at the material time, aware of the conflict or potential conflict.

(7) In this section—

'relevant authority' means—

(a) in relation to a person performing contract work for a public sector agency with a chief executive (or acting chief executive)—the chief executive (or acting chief executive) of the agency; or

(b) in any other case—the relevant Minister or the nominee of the relevant Minister.

Civil liability for contravention of Division

6T.(1) If a person is convicted of an offence against this Division, the court by which the person is convicted may, in addition to imposing a penalty, order the convicted person to pay to the relevant Minister—

(a) if the court is satisfied that the person or any other person made a profit as a result of the contravention—an amount equal to the profit; and

(b) if the court is satisfied that any loss or damage has been suffered as a result of the contravention—compensation for the loss or damage.

(2) If a person contravenes this Division, the relevant Minister may (whether or not proceedings have been brought for the

offence) recover from the person by action in a court of competent jurisdiction—

(a) if the person or any other person made a profit as a result of the contravention—an amount equal to the profit; and

(b) if any loss or damage has been suffered as a result of the contravention—compensation for the loss or damage.

DIVISION 7—EXEMPTIONS

Exemptions

6U. The Governor may, by regulation, exempt a person or class of persons, conditionally or unconditionally, from the application of a provision of this Part other than a provision of Division 1 or 2.

This is a bit more substantive than the previous one and it introduces in a new division 6 in part 2 of the principal act specifically directed at people performing contract work. The new division also applies to those performing contract work for public corporations and subsidiaries. The obligations under division 6 for those performing contract work are, in essence, twofold. Firstly, those performing contract work for a public sector agency will be under a duty to act honestly in the performance of that work and non-compliance will be a criminal offence, as one would expect. However, the provision will not apply to conduct that is trivial and does not result in significant detriment to the public interest. I want to put that firmly before the parliament. We are not interested in burying the public sector or its contract employees in trivia.

Persons performing contract work for a public sector agency will also be required to disclose a conflict between performance of that work and a pecuniary or personal interest but only where the conflict relates to a contract or proposed contract binding the agency or the Crown, except the contract for the performance of the contract work. This is a less onerous obligation than that proposed for employees. I would be the first to admit that. I felt that it was important to have a gentle touch and for employees, by contrast, the obligation to disclose conflict between performance of duties and a personal or pecuniary interest is at large.

This amendment is moved following consultation with existing major government contractors and our friends the Liberal opposition, who expressed concern about the potentially far-reaching implications of regarding contractors as employees. It is a less onerous provision. Again, we are not interested in trivia, but we want to make sure that there is no deliberate dishonesty or conflict of interest.

I should also mention a new division 7 in part 2 of the principal act, relating to exemptions. It is included as a precautionary measure to enable unforeseen and unintended consequences to be addressed. This is basically to make sure that nothing is missed by members opposite or me, or crown law or advisers in government departments, or the contractors and various agencies we consulted, but we put in a new division 7 in part 2 with exemptions just to make sure that we do not stuff anything up and we can correct it quickly.

Ms CHAPMAN: I will deal with both division 6 and division 7 because the Premier has dealt with both. On the first matter, I thank the Premier for taking into consideration the very serious concerns raised by the opposition in relation to contractors. I used the example of the school cleaner as someone who may be trapped in all this mire and, apart from raising our concern about notice of what the obligations are, the very extent of the legislation was very concerning to us. I certainly hope that proposed new sections 6R to 6T will cover those matters and I am pleased to say that the government has listened.

As to the exemptions, I am always concerned to read of exemptions by regulation. I appreciate that the motive in doing so was to give some relief for unintended groups that are captured by legislation, but I respectfully suggest that that is the very reason why it is important to draft legislation carefully before we present it for determination by the parliament, and not to have these all-encompassing clauses which then give the role, right, obligation and responsibility to the Governor, who acts on Executive Council's advice, to deal with stuff ups, if I might quote the Premier.

The Hon. M.D. RANN: I totally understand what the honourable member opposite is on about, and I had concerns, too, about having to deal with exemptions by regulation. In essence, it was designed to address the sort of potential problems that the honourable member herself identified. Let me give a hypothetical example. If we were to have an advisory board on which we wanted a representative of the South Australian Farmers Federation to advise us on farming matters, and given that we wanted them to be on the board for their particular expertise, recognising their interest in a matter, we would then have to go through the stupid, onerous and embarrassing process of declaring a potential conflict of interest every five minutes. A number of people are put on advisory or other boards because they do have an interest, and we do that all the time.

With the Economic Development Board, we decided not to have a representative of Business SA, a representative of the Engineering Employers Association or of the Farmers Federation. We went out to find individuals who had the connections, clout, commitment and competence that we needed, but many boards stipulate that there must be someone from the Nurses Federation, the Farmers Federation or the dentists' guild, so this is about making sure that we do not catch in a net designed to protect the state and the public interest against real conflicts of interest those who have been appointed for their expertise, and, by constantly being forced to declare a potential conflict, render their expertise largely useless.

Amendments carried; clause as amended passed.

Clauses 19 to 24 passed.

Clause 25.

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

Leave out this clause and insert:

Amendment of s. 74—Immunity of public sector employees, office holders and advisory body members

25. Section 74 of the principal Act is amended—

(a) by striking out from subsection (1) 'subsection (3)' and substituting 'this Act';

(b) by striking out from subsection (1) 'an employee or other person holding an office or position under this Act' and substituting 'a public sector employee, a person holding an office or position under this Act or an advisory body member';

(c) by striking out from subsection (2) 'an employee or other person' and substituting 'a person';

(d) by inserting in subsection (2) ', except in the case of an employee of a body corporate, in which case it lies instead against the body corporate' after 'Crown';

(e) by striking out from subsection (3) 'itself' and substituting 'or the employer'.

Insertion of s. 79A

26. The following section is inserted after section 79 of the principal Act:

Proceedings for offences

79A. (1) Proceedings may not be brought for an offence against this Act except with the consent of the Director of Public Prosecutions.

(2) Notwithstanding any other Act, proceedings for a summary offence against this Act maybe brought within the period of three years after the date on which the offence is

alleged to have been committed or, with the consent of the Director of Public Prosecutions, at any later time.

(3) A document purporting to be a consent of the Director of Public Prosecutions given under this section is, in the absence of proof to the contrary, proof of the consent.

The deletion of clause 25 is consequential on the amendment deleting the extended definition of public sector employee that was designed to capture contractors. New clause 25 amends section 74 of the principal act to extend the immunity from liability currently afforded to public servants to all public sector employees and to advisory body members, as this is considered equitable. The immunity extends to employees of public corporations. Immunity from liability for corporate agency members is governed by the act pursuant to which the corporate agency member is appointed. Immunity for directors of public corporations and subsidiaries will be governed by the Public Corporations Act by virtue of clause 7 of this bill.

The new clause also inserts section 79A, which provides that the consent of the DPP is required to initiate prosecutions under the principal act, and extends to three years the time within which prosecutions may be commenced. This provision mirrors an existing provision in the Public Corporations Act and is in part intended to prevent capricious prosecutions. So, rather than have a situation where someone could say that a boss, a government department or a minister is acting capriciously, with bias, in a rancorous way, or seeking to persecute, using the sorts of powers that I am trying to relinquish under the Second World War provisions, it basically says that rather than having that occur—the sort of prosecutorial equivalent of a vexatious litigant—we would simply hand it over to the DPP.

Again it is like what I am doing with the ACCC in relation to football: hand it over to the independent umpire to make independent consideration. This is to stop some future premier or minister acting capriciously and unfairly towards an employee, a contractor or anyone else, but to hand it over to the DPP to ensure that there is fairness. In doing so, we recognise a number of comments, probably from members opposite (I am not sure of that), and certainly those from the Public Service Association.

Ms CHAPMAN: I have a question on proposed new section 74. Do I take it that this clause providing immunity does not cover contractors because of their significantly reduced vulnerability to have the loss of their continued contract entitlement—they are no longer obliged to disgorge the profits or pay damages or those sorts of things? Is that the reason the immunity is not afforded to them? Is that the purpose of this? In short, are you suggesting that the now very much reduced obligation and exposure to liability that contractors have under the new division which we have considered tonight is so much more restricted that they now do not need immunity? Is that what we are trying to do?

The Hon. M.D. RANN: They would still be required to disgorge profits, if they were trying to rip us off. There is a whole range of issues that we have addressed. But they are less onerous than we would put on our own directors, heads of government departments or public sector employees. These are our own employees; therefore they have immunity. Because we have been less onerous with the contractors in terms of the provisions, they should not ipso facto a priori be given an immunity.

Ms CHAPMAN: I did not understand that last bit. I take it that the Premier was practising his law.

Amendment carried; clause as amended passed.

Title.

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

After 'Criminal Law Consolidation Act 1935,' insert:
the Industrial and Employee Relations Act 1994

In moving the long title, I would like to thank the opposition and all those who contributed to the consultation process, particularly the PSA. Peter Christopher and Jan McMahon of the PSA came to see me at one stage to say they were a bit concerned about some of the provisions. We listened, and they educated me, so we decided to make some changes because it was based on fairness. We tried to be inclusive, not only of the opposition but also of the Public Service Association.

Our whole aim with this suite of legislation, whether it is about upgrading the role of the Auditor-General and giving him greater independence and stronger powers, or upgrading the role and independence of the Ombudsman and widening the breath of the scope to include new Ombudsmen, covering areas of power and water, or new community services Ombudsmen, covering private hospitals and public hospitals as well as mental health institutions and nursing homes, or indeed the code of conduct that now applies to ministers, which is much tougher, relates to our charter of financial responsibility.

The suite of measures which we have introduced and which is now on the verge of passing through this house is simply designed to meet the expectations of the public that our politicians, our ministers, our heads of government departments, those who work for the government, and those who are contracted to the government act honestly and in a way that we would expect them to.

I would like to thank my officers, Debbie DePalma and Sally Glover, and also parliamentary counsel and crown law for their assistance. It has been a complex series of bills, and that is why I thought it was important that I actually dealt with them. That is why I have decided that, in due season, I will appoint myself Acting Minister for Justice and Acting Attorney-General!

Amendment carried; title as amended passed.

Bill reported with amendments.

Bill read a third time and passed.

Mrs GERAGHTY: Mr Deputy Speaker, I draw your attention to the state of the house.

A quorum having been formed:

GAMING MACHINES (GAMING TAX) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 11 July. Page 749.)

The Hon. I.F. EVANS (Davenport): With the indulgence of the Treasurer and the chair my comments will also refer to the next bill, the Stamp Duties (Gaming Machine Surcharge) Amendment Bill, because in a way these two bills are related, but I will try my best to stick to the Gaming Machines (Gaming Tax) Amendment Bill in the first instance. I am interested that the Treasurer was asking where the member for Davenport was. The fact is that the Treasurer and I were having a discussion about a whole range of matters, including these bills, and we were caught out by the debate in the house. He was quicker down the stairs than I was, and that probably reflects his fitness.

This bill relates to gaming machines, and this comes to the house as a result of the government's broken promise in its

budget, its tax regime and its written agreement with the South Australian branch of the Australian Hotels Association that it would not increase taxation measures in relation to gaming machines. We all remember the comments made by the Hotels Association and the various media reports and images regarding the fact that the Treasurer and the Premier had made an agreement with the Australian Hotels Association that they would not increase the pokies tax. They made that commitment to them verbally and in writing prior to the election. They went to the election with the promise that they would not increase the pokie tax regimes in hotels and clubs and then, surprise, surprise! Immediately after they were elected, in their very first budget they announced that they would break a written commitment to the Hotels Association and make a significant increase in the taxation regime on poker machines.

This is the bill that delivers that broken promise to the house and the hotels and clubs industry in relation to the taxation measures that were put to them at the election. It is one thing to go to the trouble of signing an agreement with an industry group such as the Hotels Association. It is one thing to sign that agreement before the election, to have an agreed position between an industry lobby group and a future government, and to shake hands on the deal. It is another thing then to go back on it, and I am sure that the Hotels Association and its members will make their own judgment about the trustworthiness of the Treasurer and the government in future dealings.

What the government has misunderstood in relation to this issue is the message that that set of circumstances has sent to the investment community interstate. A number of opposition members and I have had visitors from board members of interstate companies, and one visitor was from an international company that had invested in South Australia. They were asking us what is going on and what the government is doing signing an agreement with an industry group and then, within weeks of coming to office, breaking that written agreement. If an industry group signs an agreement about a tax regime with the incoming government and tells all its members that it has done so, and then, in its first budget within two or three months of coming to office, the government breaks the written agreement, it sends a very strong and distasteful message not only to the members of the association but also to interstate and international investors. Ultimately, when they invest in South Australia there has to be a level of trust in the government.

If the government will do in the eye an agreement with its own Hotels Association and a local industry body, then what chance does an interstate or overseas investor have of getting a decent, honest and committed deal out of the government? Our concern as an opposition is not only in relation to the absolute public doublecross of the hotels and clubs industry in relation to this matter, but also the very unfortunate message that the government has sent interstate and overseas investors in the early days of this government's term. The opposition has many visitors from overseas and interstate businesses asking, 'What is the government doing, and how can we now trust South Australia to invest?'

Put yourself in the mind of the investor. If you can get certainty out of another state but not this state, it makes sense that there is a better chance that investors will invest their money where the investment climate is more certain. You cannot have certainty and investment in the state when the Treasurer and the Premier of the day sign a document saying they will not increase taxes and then, within two or three months of coming into government, that is exactly what they do. They did not increase taxes by just 1 or 2 per cent (a small amount); rather, they increased taxes in this case by $34 million in a full year. That is a significant tax increase. I think I am right in saying that the Treasurer took some joy in saying that it was the largest single tax increase on poker machines in Australia's history. Well, he certainly did not put that in a letter to the Hotels Association prior to the election. He certainly did not say that he was going to implement the greatest tax take on the hotels industry in Australia's history. So, the opposition raises the whole issue in respect of this government's broken promise in relation to this issue.

The government went to the election saying that it would not need to increase taxes and charges to fund its election promises, but the first thing it did was to whack $34 million a year in extra taxes on hotels and clubs. Secondly, the government tried to introduce a new charging regime on crown lands in South Australia: it tried to increase the minimum rent for crown lands to $300 a year and the cost of $1 500 per freeholding to $6 000. That was such a disastrous decision that it has been referred to the select committee.

So, in respect of the first two financial decisions of the state government in relation to this budget, the crown lands issue has gone to a select committee to enable it to try to sort it out, because the government really has got itself in a bind in relation to crown lands. Secondly, the $34 million a year extra that the government is going to raise from hotels and clubs represents a substantial broken promise on which we are sure the hotel industry will make its own judgment in the future. So, the opposition has significant concerns regarding this bill.

The other issue that we want to raise is that we see no reason to debate this bill tonight. The Treasurer tells me that he does not want the bill deferred tonight because he wants to get it into the upper house tomorrow. Let us look where we are placed. The bill will not get through the upper house tomorrow. The Treasurer admits that, I know that, and the upper house members will tell him that; and the Hotels Association has written to the parliament today saying that its legal advice raises a whole range of questions about the bill on which it needs further clarification because of the unintended consequences of the legislation. For the benefit of the parliament, I will read the letter. It is dated 27 August and I received it today. The letter is from John Lewis, the General Manager of the Australian Hotels Association (South Australian Branch), and it states:

> On behalf of the AHA (SA) I am writing in regards to two Bills before Parliament which relate to the revised gaming tax rates and the new levy announced by the Treasurer, the Hon. Kevin Foley MP, at the Estimates Committee hearing on 30 July 2002, namely, the Gaming Machines (Gaming Tax) Amendment Bill and the Stamp Duties (Gaming Machines Surcharge) Amendment Bill. Due to the complexity of the proposed legislation, the AHA decided it was particularly important to obtain detailed legal advice on the content of both bills. Preliminary legal advice from Thomson Playford lawyers is that the current draft legislation contains unintended consequences. A copy of this advice has been sent to the Treasurer's office and more detailed legal advice is pending.
>
> Given the serious nature of these unintended consequences, the AHA requests that deliberation on both Bills be deferred until more thorough examination of the proposed legislation is continued, which may take several weeks.
>
> In addition to the complexity of the proposed legislation and the need to ensure there are no unintended consequences, the AHA believes two important issues must be addressed in relation to the gaming tax rates and the new levy. The first one is the period of revised gaming tax rates. In relation to the revised gaming tax rates, the AHA understands that the new rates will take effect from 1 January 2003, and remain unchanged for the life of this Parliament.

The AHA believes that the time period 'for the term of this Parliament' is unacceptable, as it is an indeterminate period of time and, as a result, fails to provide hotels with the appropriate levels of certainty required for successful business planning. Therefore, the AHA request that the Gaming Machines (Gaming Tax) Amendment Bill be amended to reflect the following: gaming taxes cannot be increased from 1 January 2003 until 1 January 2007. Also during this four-year period, there will be no additional taxes, levies, fees and/or charges in relation to gaming machine operations.

The second issue is the gaming machines levy. In relation to the levy, the AHA understands that the levy amount to be imposed on the purchaser of a hotel will be calculated at a rate of 5 per cent of net gaming revenue and will come into effect for contracts entered into after the date of assent. This means it will not be retrospective in operation or effect, including not having application to any contract entered into prior to the date of assent. From the outset, the AHA understood that the levy would make up the $20 million 'shortfall' created as a result of the readjustment of the new gaming tax rates; however, we note that this has not been embodied in the Bill before Parliament. Therefore, the AHA requests that the Stamp Duties (Gaming Machine Surcharge) Amendment Bill 2002 be amended to reflect the following: the levy will expire once $20 million has been raised through the levy payments, or the end of the four-year term has been reached, whichever shall first occur.

Naturally the AHA is more than happy to discuss any of the issues raised in this letter or furnish you with either an electronic or written copy of the legal advice. . .

The letter goes on to give details of where that legal advice can be obtained. It continues:

While the AHA strongly objects to the gaming tax increases, our industry is keen for this issue to be resolved through the passage of best practice legislation.

This letter, which as I said is signed by John Lewis, raises a few interesting points. The hotel industry tells us that they themselves do not have firm legal advice about what the bill means. The bill basically affects only the hotel and club industries. Why are we rushing this piece of legislation through this place tonight, when the actual industries that it affects are telling us that they have yet to get firm legal advice on what it actually means? It is one thing to walk away from the hotel and club industries in relation to breaking a promise about not increasing taxation on their industries, but it is yet another to say to the parliament, 'We will steamroll it through the lower house with our numbers tonight even though virtually the only industry that it affects in a financial way is saying to the parliament that it has not had enough time to get proper legal advice to form a view about all of its effects.'

The Treasurer and the government are saying that the parliament should ignore the AHA's letter and slam the legislation through tonight to get into the upper house, where it will sit for another six to eight weeks because of the break until October. The upper house will then have to deal with the issues. It is all right to take that approach, but that means that the Independents who sit in this chamber (not in the other chamber) will not get the opportunity to fully participate in the debate knowing all of the facts, because until the legal advice is given to the Australian Hotels Association and distributed to all the players and politicians we will not know what that advice from Thomson Playford will be.

So, although we have asked the government (and the Treasurer has rejected this, but we will put it on the record so that the industry groups know that we have taken this up with the government) not to proceed with the legislation tonight, we have been told that it is going to do so. Therefore, we will debate the issue tonight under protest because, in fairness to the hotel industry and the people who are participating in the debate, there is absolutely no logical reason why this debate could not be deferred in this chamber until we return in October. That would give the industry the chance to get all its advice together and present it to the parliament for consideration.

The letter also touched on another matter in relation to the levy, and that is the subject of the second bill, but I will refer to it now. The poor old Hotels Association—

The Hon. K.O. Foley: Poor?

The Hon. I.F. EVANS: 'Poor' as in unfortunate, in that the government attacked them in the budget and broke its promise about not increasing taxation. I would not say they are poor in the financial sense. I think the Hotels Association was very surprised by the size of the budget announcement. So, like any industry association, it exercised its democratic right to go the Treasurer and say, 'Can we negotiate a fairer outcome for the members?' On the morning of the estimates committee, the Treasurer made great play in this very chamber of the new deal that the government had negotiated with the Australian Hotels Association.

As I recall, the deal had a different spread of the trigger points for various taxation regimes to kick in, resulting in a different spread of taxation regimes across the hotels and clubs than was first proposed. The Treasurer came into the chamber that morning and said, 'We don't accept 100 per cent of what the Australian Hotels Association is saying. We will make some adjustments to the spread of taxation regime,' which it did, 'and that will raise the same amount of money. On top of that, we will add another $18.5 million asset transfer levy.' The Australian Hotels Association negotiated in good faith and, as I understand it, came out roughly $20 million over four years worse off. That is another good message to the industry groups in South Australia: when you negotiate in good faith with Treasurer to try to make something a little fairer for your industry, beware that you may end up $5 million a year, or $20 million over four years, worse off.

The way the government has treated an industry association in this matter is a sign of the government's absolute arrogance. I understand that the Treasurer believes that he needs to raise certain taxation measures to meet his revenue targets, but to treat an industry association in the way he has treated the Australian Hotels Association is unfortunate and shows the government's disdain for many of the industry groups. All around South Australia, industry groups have raised an eyebrow about the way that one of the more professional groups—the Australian Hotels Association—has been treated in this matter.

This bill is born out of a broken promise and a fundamental betrayal of what is one of the state's more important industries. We argue that we do not believe that the government fully understood the ramifications of the bill. In the first few days, all the media comments were (and, for those who are interested, these can be tracked in the media statements), 'We're going to attack super profits.' Of course, the tax is on turnover, which has an effect on the capital value of the business. Many hotel organisations have been purchased in the past 12 to 24 months based on a certain capital value; based on that capital value there is a debt to asset ratio, an equity ratio; and the banks have lent money on a certain formula. Suddenly, because of the mixture of the taxation regime, the value of the business has dropped. When the value of the business drops, the banks knock on the door and say, 'We want to revisit your borrowings, because the value of the business now is different from when we first considered those borrowings.'

It is understandable why some of these families are pretty annoyed, after they have gone to the future government and said, 'Will you give us a written guarantee that you won't be putting up the taxation regime?' Business choices have been made based on the only advice that the Australian Hotels Association could give—that is, it had a signed letter on behalf of the possible future government that it would not be raising taxation measures, particularly on poker machines: 'There is the signed letter. Don't worry, because we had lunch. The shadow treasurer and I had lunch. We looked each other in the eye, shook hands, patted each other on the back and said, "We've done a deal."' When the deal is broken, why the—

The Hon. K.O. Foley: Which lunch was that?

The Hon. I.F. EVANS: The meeting you had with the Australian Hotels Association.

The Hon. K.O. Foley: It wasn't lunch.

The Hon. I.F. EVANS: I apologise—it was not lunch: it was just a meeting. You can understand why the Australian Hotels Association, particularly those businesses that are now under pressure through their borrowing, are disappointed with the government's action. There was then the farcical situation of the various reports, when the government called in consultants—the very consultants they were going to cut as part of their budget saving measures. Of course, we have the infamous Magee and Allen reports, which were so seriously flawed in a whole range of assumptions, using wrong wage rates and wrong taxation regimes.

The Treasurer was quizzed at length during the estimates committee in relation to the issue and, ultimately, fobbed it off by referring to other advice that had been taken. Of course, the other advice the government had received was from the Treasury officers who had designed the original taxation regime that had caused the problem. The Magee and Allen reports underpin the messy lead-up to what has been a significant broken promise with respect to this budget and this bill. It is unfortunate that the Treasurer and the Premier have used the phrases 'pokie barons' and 'pokie sheikhs' and made other smart comments which insult the people in the industry who have done nothing more than mortgage their assets to try to produce income and employment for their family and others. Why should they put up with the leaders of the state insulting them with such names as 'pokie barons' and 'pokie sheikhs'?

The second reading explanation sets out the government's reasons for introducing this bill. I do not intend to go through the whole speech line by line, because I think there has been enough debate on this matter, both publicly and in the estimates committee. I think all members are aware of what the bill is about, but I emphasise that this measure will produce an extra $34 million a year for the government budget. The opposition has proposed some amendments to the bill, and I will touch briefly on those now so that members have time to reflect upon them. The Treasurer, whilst in opposition, will recall when a former treasurer, Stephen Baker, first brought in the Gaming Machines (Gaming Tax) Bill.

The Hon. K.O. Foley: Have you been doing some research?

The Hon. I.F. EVANS: No, I was around the place at the time. I have a reasonable memory on this one. A lot of discussion took place on how much money the poker machines would bring into the state Treasury. Treasurer Blevins introduced a private member's bill to bring gaming machines to South Australia and, to give it priority, it was debated in government time. The Liberal government of 1993-97 inherited the unfortunate task of implementing the gaming machines measure. During the debate on the original gaming machines bill, the Labor Party negotiated a series of amendments to establish a number of funds within the bill, that is, the Sport and Recreation Fund, the Gamblers Rehabilitation Fund and the Community Development Fund.

I will not relate the whole history, because I know others want to speak and we do not want an extraordinarily late night. Treasury originally estimated that the poker machines would raise something in the region of $120 million to $130 million, or possibly $140 million. Based on those figures, parliament established three funds: the Sport and Recreation Fund would receive $2½ million a year; the Gamblers Rehabilitation Fund, $3 million; and the Community Development Fund, $19.5 million. Those measures were inserted in the act for various purposes.

The Gamblers Rehabilitation Fund is obvious; the Sport and Recreation Fund was as a substitute for the income that would be lost to community clubs; and the Community Development Fund was to undertake a whole range of projects, not dissimilar to the Sport and Recreation Fund, but for other purposes. That was based on an estimate of around $120 to $140 million. We all know that in the current climate the estimates are something like $220 million or $230 million; so we are getting up to $100 million more than we had originally estimated. So, we would argue, that it seems reasonable that those amounts in those funds be increased—the Sport and Recreation Fund by about $1 million; the Gamblers Rehabilitation Fund by $1 million per year; and the Community Development Fund by $500 000 per year.

I will not touch on the Sport and Recreation Fund and the Gamblers Rehabilitation Fund, as they are obvious. The only change we are proposing to the Community Development Fund, apart from the $500 000 a year, is that that amount be used specifically for programs in relation to live music. Parliament might recall that just prior to the 2002 election, the then minister for the arts the Hon. Di Laidlaw from another place had a review of live music, and there was a recommendation from the committee (which I think was chaired by the Hon. Angus Redford from another place) that we should set up a fund to deal with the soundproofing of venues and the like, so that hotels and clubs could go about their business of providing live music without causing as many problems to residential neighbours.

There was a recommendation of a fund being set up. The gaming machine revenue of $34 million extra per year and $18.5 million over five years extra out of the levy is essentially coming from the hotel/club industry, and it seems reasonable that $500 000 per year be put back into that fund to address the live music issues in those particular venues. Of course, the Liberal Party has always been a great supporter of live music and the arts in that sense, so we see that as a reasonable measure.

I could talk for a lot longer, but I will not. However, I will be raising with the Treasurer a whole series of questions during the committee stage on the legal advice given to us by the Hotels Association this afternoon. At about 20 to 6 tonight I got a nine page letter from the Australian Hotels Association of legal advice from Thomson Playford. They raise a whole heap of issues in relation to the bill. It was my preference that the bill not be debated tonight because then I would not have to go through the process of raising the questions on the floor of the house.

I understand the Treasurer has many of the answers already because of his negotiations with the Hotels Association, but so that the Hotels Association get a very clear understanding of where the government's view is on these bills I will ask a series of questions about their legal advice. The Treasurer will then have the opportunity to put the government's advice on record and then, in between houses, the Hotels Association and others will have the opportunity to view that advice and firm up their legal advice before the debate occurs in the other place. So, with those few words, I indicate that as it is a budget measure, the opposition will not be opposing the measure, but we are certainly voicing our strong disappointment at the way the matter has been handled.

Mr WILLIAMS (MacKillop): I will not take up too much of the house's time tonight because my colleague the shadow minister has made a fine job of putting the opposition's position, but I do want to take the opportunity to put some of my thoughts on the record. It has been said a number of times now in the house that one of the principal effects of this whole measure has been the broken promise effect. The effect that we have now in South Australia a government that will sign off on a deal with an industry group, or with anybody for that matter, and within a very short space of time walk away from it, turn its back on it and ignore the deal that they have made, ignore the undertaking that they have made with the industry group.

The Treasurer in this instance, and the Premier, have come into this place, have gone into the public arena before the mass media in this state, and have made gratuitous remarks about the effects of this tax on so-called pokie barons. They have used emotional language to try to win the debate and pretend that they are some sort of modern day Robin Hood robbing from the super wealthy and giving to the poor. Nothing could be further from the truth. But the big problem here is the principle. As I have said in a previous debate, how can any investor come to this state, look the Treasurer of this government in the eye, talk about what their intentions are, get the Treasurer's word on what the government's position will be six, or 12, or 18 months down the line and accept the Treasurer for his word? The Treasurer has proved in this measure that his word literally is not worth the paper it is written on. This has been a very sad event for South Australia because the effect that it will have on investment and potential investors is, I think, huge.

The reality is that the people affected by this are not super wealthy. The term 'pokie barons' is just a nonsense. These are hard working South Australians and, in some instances, interstate and possibly even international investors who have taken the risk and put their capital on the line in order to drive the economy, in order to provide jobs and growth in the economy of South Australia; and this is the way they have been treated. I particularly want to draw to the attention of the house a conversation I had with one of the hoteliers in my electorate. Had we listened to the Treasurer and the Premier on this we would have believed that this affected a small handful of super-rich hoteliers running huge hotels and poker machine venues here in the city. But this is impacting right across the state, and a hotelier in my electorate said to me just recently when I was in his establishment and discussing this issue, 'We were about to spend $2 million'—

The Hon. K.O. Foley: Which pub?

Mr WILLIAMS: I will not put that on record.

The Hon. K.O. Foley: He may not be affected.

Mr WILLIAMS: But I will come over and talk to you about it.

The Hon. K.O. Foley: Well, check whether he's affected.

Mr WILLIAMS: Yes. Well, whether he is affected or not—and this is the problem that I want the Treasurer to be aware of—he had a partner, who was a silent partner but a significant investor in the business, and the partner has withdrawn. This particular hotelier said to me—and I do not know that he will be directly affected—but the partner has lost faith in the industry because there is so much uncertainty in the industry. The hotelier said to me, 'I am still going to stick with the industry. I am already up to my neck in here. I will go ahead with my half of the investment.' But the investment in this country town—and I can assure the house that none of the towns in my electorate are too big—will now be more in the order of $1 million rather than the $2 million as was proposed. If you extrapolate that across the state, I think it would not be too far off the mark to say that this would have the effect of at least the reduction of $100 million worth of investment over the next 12 to 18 months in this state in the hotels industry, and I think that would be a very conservative estimation.

So, I think this move in itself will have a great effect on potential investors who would be looking at coming into this state and it will have a significant effect on those who are already in the state and in the process of increasing their investment. I think it has been a very sad day for South Australia when investors cannot rely on the word of the Treasurer, when investors cannot rely on the fact that they can come here and know that the goal posts are not going to be moved on a regular basis and in a capricious way, and I think that is the shame of this whole measure.

I think the amendments that the shadow minister has alluded to are very worthwhile measures, and if we are going to have to put up with this, and as the shadow minister has said, because this is a budget measure, even though the opposition does not agree with it, we will be allowing this to go through. Under those circumstances, I think it would be very advisable for the house to support the amendments that will be brought by the shadow minister that will, in some small way, redeem this measure which has been inflicted upon South Australia.

The Hon. R.G. KERIN (Frome): As the member for MacKillop was saying, it is with some sadness that the opposition supports this bill. This bill will do South Australia enormous damage. I think investor confidence has taken a real kick in the midriff over this. It really is a breach of the confidence of the business community of South Australia and the investment community as a whole. South Australia was starting to appear on the radar screens in the eastern states as a good place to invest. I have had discussions with certain people from the eastern seaboard who are quite upset about what is happening. Some of them who have invested in the hotel game in the last couple of years are extremely upset. It has sent a real message to all boards on the eastern seaboard that this government is not to be trusted, that it needs to be watched and that basically it will cost us an enormous amount of investment dollars.

The hotel industry alone will lose a lot, but there is a flow-over from that. I was talking to a CEO a couple of weeks ago from Victoria whose company has suffered enormously from this move and who is finding it very hard to justify this to his board. His board is saying to him, 'Surely you must have known this was coming.' He has tried to explain to the board

that they had a written promise from the new government that this would not happen and that the Treasurer had given assurances that it would not happen. Now he is trying to explain to his board not only why all their cash flows are well and truly out but also why they had signed contracts to buy some other hotels which are now not worth anywhere near what they paid for them; in fact, they are worth several millions dollars less.

The fundamental thing about the broken promise is extremely disappointing, and it is one about which we have heard the rhetoric in relation to health and education. In reality, if members look at the much vaunted surplus about which the Treasurer talks, they will see that this money has been taken away from hardworking people and put into a surplus for the government. I wonder whether this cabinet really understands what it did when it made this decision and several others. We understand that there is not a lot of experience around the cabinet table. There is very little in the way of any business experience or people who understand that, when you affect the cash flow of people, you also affect the capital value that those people hold and the equity that they have in their possessions.

I think that has been the big thing that has been well and truly underestimated. There has been an enormous knock to the cash flow of these people. However, members must recognise that they need to multiply that by five, six, seven or eight to come up with what they have lost in capital value, which, in this case, is enormous. It is deceitful to claim that it is just a tax on the top end of town. I think that is a hell of a slap in the face for many very hardworking people. Yes, some people in the hotel business have been successful. The Treasurer and the Premier have been referring to them as pokie barons, sheikhs and multimillionaires. I put it to members that there are not many better South Australians than people such as Peter Hurley and Greg Fahey. I have known these guys for a long time.

There are some very successful publicans who well and truly meet the government's pokie baron classification and who started off running one or two hotels, mainly country hotels. They have worked hard, they have reinvested, they have employed people and they have invested again, and they have been absolutely savagely hit. It is almost like a politics of envy to have a crack at these people. What has really rubbed insult into injury is to hear the Treasurer and the Premier constantly attacking these people as pokie barons or whatever. It involves not just the Peter Hurleys, the Greg Faheys, the Saterno brothers and those who have worked very hard but also a whole range of people who have been major investors and employers in this state and who have taken a real hit over this.

But there is another range of people. In the days following this announcement, I remember watching one of the TV news reports. They were interviewing a manager of one of the major suburban hotels—I will not name the hotel—and that guy really looked stressed out. He knew that most of his equity had been wiped out with the stroke of a pen. That was extremely tough on him, his family and all his employees. The massive uncertainty that this has caused so many of these people is totally unfair. On the lower end of the scale, many people have worked hard to get into the hotel game—and many people want to get into the hotel game; it is one of those games.

These people may have been plumbers, electricians or people who have worked hard in a whole range of industries, but they are also people who have gone without. They have sold other assets and have borrowed from their families to invest in a hotel. To give members some idea how this happens, banks have been lending up to 80 per cent on hotel properties. For example, someone raises $2 million by working hard, borrowing from family, selling assets or whatever to put into a hotel. He puts that $2 million with the $8 million he borrows from the bank, and he has a property worth $10 million. As a result of this decision, that type of property lost cash flow of approximately $400 000 a year. A bank will factor that by approximately seven times, which means that that property loses $2.8 million in value.

Suddenly, this hardworking South Australian who deserves a hell of a lot better, instead of having $2 million of equity for which he has worked all his life, has no equity left and, in this case, owes the bank $800 000. That is just one example of what has happened. I have a friend who, along with a couple of his mates, has bought a hotel. Basically, they are tradesmen who have worked damn hard to save and who have done everything they can to be successful in life. The three of them have put everything into buying a hotel. The stroke of a pen not only removed their cash flow and messed up their business plans but also removed $690 000 from the value of that property—equity gone west. One decision. They are not pokie barons and there are no Maseratis—one drives a ute. Not only do they lose all their equity and everything they have worked for all their lives but they then are insulted and told that pokie barons are making too much money.

They have made it sound like an income tax. Yes, for some it is an income tax, but it also affects their capital equity to an enormous extent. For some it is not an income tax: for some it is a tax which has removed the equity that they have had in an investment in which they have put their life's work and, in many cases, a lot of their families' and friends' money as well. It is a disgrace. This decision was based on some very flawed figures. I am sure that cabinet was not informed what effect this would have on capital value. The effect on capital value is enormous, and that is what worries me.

This decision wipes away all the equity of many hard-working South Australians—people, who instead of taking it easy and working five days a week, 35 hours a week, have worked seven days a week and who are willing to take a punt, put their money into the game, employ people and get tradesmen in to do up these properties. The hotel game in South Australia has improved enormously over the last few years because people have been willing to have a go. So many of these people who have had a go have just had the rope absolutely pulled out from under them.

Yes, I would argue that I would not have supported such a move in our cabinet, but a small rise in tax perhaps could have been worn. Many of them admit to that, but the severity of this is unbelievable, and the Premier—

The Hon. K.O. Foley interjecting:

The Hon. R.G. KERIN: No, I would not, and I can absolutely say that. Anyone who sat around the cabinet table with me would know how I felt about this type of issue. We have a small investment community in South Australia. The last thing a state such as South Australia can do is afford to kick in the midriff people who are willing to invest in this state: you just do not do it. I can tell members now that not only the hotel industry but also a whole range of other industries will be affected, and not just the flow-on industries but the whole investment environment in this state will suffer enormously from this one ill-thought-out decision. The cabinet did not understand what it was doing. I think it is one of those unintended consequences. I do not think it intended

to do this; I just do not think it understood; and, as a government, it will pay the penalty.

The Treasurer initially when challenged over the report and the basis on which they made this decision said that he stood by the report. Come estimates, the Treasurer did not say that he stood by the report; he said that there were flaws in it. I would like to know what cabinet was told. Was or was not cabinet told that the report was flawed, because it certainly was flawed? It is a bad move for South Australia.

I must say that I was extremely disappointed with the *Advertiser* over a shift in what it does in relation to principle. The *Advertiser*, over a long time, criticised the Liberal government over broken promises (they called it) in relation to ETSA. That was explained time and again to the *Advertiser*: that is, ETSA was sold because our advice changed; because of the change in the electricity market; because of the trial that ETSA did into the power market; and for a whole range of other reasons. It was put back to me, 'Yes, we understand that, but it is the principle: you broke a promise.'

The same paper, in an editorial after this, praised the broken promise of this government because it had to do with pokie tax. This has nothing to do with problem gambling—nothing at all. This is a grab for money to put more on to the surplus. You cannot say that this money would go to health and education. It has not gone to health and education but into the surplus. I do not know how the hell the Treasurer will justify that.

I apologise on behalf of this house for the fact that we have a system in this state whereby we have to allow this measure to go through. It is not understood by this cabinet, which has no idea on crown leases and a whole range of other issues. When it comes to anything to do with business, it has absolutely no idea.

The Hon. K.O. Foley interjecting:

The Hon. R.G. KERIN: Only by shifting $300 million. This cabinet has no idea and South Australia will pay a hell of a penalty for this poor decision into the future. I feel extremely embarrassed on behalf of all MPs for the fact that we went a long way to removing much of the equity of our really successful people and as good as destroying a heap of others. Then we saw the Premier and the Treasurer go out and, when they were attacked, instead of trying to explain it they simply came out with the rhetoric of, 'They're pokie barons, sheikhs, multi-millionaires.' That is not fair, because they are hard-working South Australians. The successful ones are hard- working South Australians and we can be proud of what they have achieved, the people they have employed, the investment they have created and the fact that, while the hotel industry in the early 1990s was at rock bottom, most pubs in this state have now been greatly improved. I apologise to those people for the attacks on them because, from where I sit, people in the hotel industry are the salt of the earth; they are great South Australians and did not deserve to have this happen to them.

Dr McFETRIDGE (Morphett): This move by the government is a deceitful and dishonest one. I received a copy of the Hotels Association's magazine today. This promise not to raise gambling tax goes back to 29 August 2001. The magazine states:

> On 29 August 2001 the AHA formally wrote to the shadow treasurer, Mr Foley, concerning the ALP's position on gaming tax under a Labor government. On 26 January 2002 [Australia Day] we received a letter from Mr Foley that the ALP would not increase taxes if they were elected to government. This was confirmed in a face to face meeting with Mr Foley. On 11 July 2002 the government announced in the budget that gaming tax would increase to a top level of 74.09 per cent from the previous rate of 50 per cent.

This Labor government sticks up for the toilers and workers, or so it claims. Of the 630 hotels in South Australia, only 11 are under corporate ownership. Who own the rest? They are owned by families and small clubs and societies—family businesses. A couple of families may have got together, but they are essentially family businesses. In Morphett I have 24 000 constituents in 13 square kilometres—it is a very dense area—and we have eight pubs. I have been approached by every one of those publicans and the groups associated with them to seek my support. They have invested millions of dollars in renovating their pubs to make them attractive and competitive. What reward do they get? They get broken promises! There are two new pubs opening: the Pier Hotel and the Glenelg Football Club Convention Centre—a $3 million investment—to which I am going on Saturday night. How will they go? It really is a travesty of justice. Let us look at what the Hotels Association said:

> Consequences of gaming tax increase.
> As a result of the state government's gaming tax increase:
> · About $60 million worth of construction work has been scrapped or halted;
> · Hotels have indicated that up to 1 000 jobs will be shed.
> · Many hotels expect their prices to rise anywhere from 5 per cent to 25 per cent;
> · Many hotels have indicated they will review or scrap donations to sporting clubs and other community groups;

I have one pub that donates to 15 local community groups and that will be put in jeopardy—not just the surf life saving club but also the nippers, the junior athletics and the little guys around the place—15 clubs from one pub. Those donations will go out the window. The article continues:

> · Many hotels have indicated they will curtail or stop live music;

That is another disgrace. We have just got live music taking off in South Australia, and what has happened?

Ms Chapman: Another casualty.

Dr McFETRIDGE: Yes. The article continues:

> · A number of interstate companies which were considering or already had invested in South Australia have indicated to the AHA that they will now be looking at Queensland or another state to invest;

That is not just the Hotels Association and the pubs. The message being sent by this government to all people looking at investing in South Australia is, 'What you see today is not what you might get tomorrow; the goal posts could be shifted. We won't tell you when it's going to happen; in fact, we might tell you it isn't going to happen'—but then it does happen.

Mr Brokenshire interjecting:

Dr McFETRIDGE: They write to you and say it to your face, but it does not mean a thing. The credibility gap is there. Talk about a gamble coming to South Australia now! Hotels have been selling for around seven times their earnings, but $280 million has been wiped off the capital value of the industry. This is a crushing setback for the families who own these pubs. These people survived the recession—the Labor recession we had to have. What do we have now? We have a huge setback. The consequences of this are just starting to show. The sad part is that families will suffer, but it is also very sad that this government is showing its ineptitude in making decisions on flawed information. It thinks net gaming revenue is money in the till—it is not money in the till.

The Hon. K.O. Foley: What is it then?

Dr McFETRIDGE: The net gaming revenue is the money that goes through the poker machines. If you divide that by about seven you may get some idea of what is going to be returned to the pub; take away overheads and outgoings and what do you end up with? Not much after what this government has done to them. Where is the credibility with Mr Magee? There is none. This government has to rethink this and I hope it has the commonsense to sit down and look at what it is doing not only to the Hotels Association but also to South Australia with this message and its broken promises.

Mr BROKENSHIRE (Mawson): As the leader of our party has said, given the conventions in the parliament, clearly it is a budget bill and has to go through. But this bill cannot and should not go through without some facts being put in *Hansard* for the public record showing what this government has done. Already in the short time since this government introduced the budget, with an enormous impost on certain small profitable businesses—family owned South Australian businesses—there has been a backflip. We have seen a partial backflip because the homework was not done when it came to the impact of this measure. It took the Australian Hotels Association to undertake some strong lobbying to get some commonsense back into what was an inappropriate decision by this government concerning this tax measure. I do not say that only on behalf of the hotel proprietors, some of whom have been extremely successful.

Why should they not be extremely successful, the same as any other business, be it a multinational or a business such as Clipsal, which started here as a South Australian owned family business and has grown to a point where it employs several thousand people and has business connections internationally? Whether it is a small business or a big business, it needs to make a profit, and one thing that we all know is that, when you make a profit in business, you reinvest that money. By reinvesting that money, you create more jobs and more wealth; you have a better economy; you have a better community; and you have a more sustainable tax base at state and federal government level, so that each year you have sustainable income coming in, not knee-jerk reaction tax imposts that may not even come into the budget in future because, if confidence goes in a business, people are not going to put in further investment and, sadly, jobs might be shed.

I have received letters, not necessarily from the hotel proprietors but from the people who work in the front bar, who work in the hotel kitchen and whose family orientation has them working to put bread and butter on the table for their family, and that is in an electorate where a lot of people have very little spare money for their family after they have met all their commitments. They have written to me saying, 'Why can't you get some commonsense into this government?' The government said that it would be able to deliver its promises without increasing taxes and charges, but what is it doing? It is significantly increasing taxes and charges, and the boss—the proprietor of the hotel in which they work—has indicated that they may not necessarily have the guarantee of employment that they previously had because his profit base has been eroded.

The government has missed this issue, but I do not blame the Treasurer for that. The Treasurer is only part of the cabinet, and he has somehow to try to make things work when he has demands on him from other members of cabinet. I know how it works. At the end of the day, he is often the person who cops the most negativity when these sorts of things happen, but it is the government, not the Treasurer, that made this decision. In fairness to the Treasurer, he is only representing the government.

Mr Goldsworthy: You are letting him off the hook.

Mr BROKENSHIRE: No, it is the government. Don't ever think that the Treasurer runs the government. The government is run by a cabinet. It is not the Treasurer alone, and I think he would agree with me on that—or does he run the whole government?

The Hon. K.O. Foley: I am but a bit player in it all.

Mr BROKENSHIRE: He is only a big player—

The Hon. K.O. Foley: Bit player.

Mr BROKENSHIRE: In fairness to the Treasurer, he does not run the whole government. But the government has decided to put this impost on the hotel industry. As was rightly said before, the hotel industry was on its knees. Some people suffered immensely as a result of the introduction of poker machines, and the Treasurer said earlier that it was a Labor government that brought in poker machines in about 1992. Yes, some people have missed out, but there has been a jobs shift and a wealth shift, to a degree. However, at the end of the day there has still been a big spend both in investment and in disposable income that is spent by the community on entertainment and hospitality.

I am worried now that hotels in my electorate, which employ 60 to 80 people on a permanent and part-time basis, might start to shed those jobs. If university students, who are our future, and people who are doing TAFE studies, etc., and who want to better themselves do not have a job, or lose their part-time work, that puts the pressure back on their family to provide for them while they go through study. It also takes away from them the work ethos, that sense of confidence, that sense of self-fulfilment that we see so often in young people who work all night in hotels and hospitality facilities. I do not think that the full ramifications of this taxation increase have been thought through.

I highlight now what has happened as a result of this measure in simple terms, not in the complicated accounting speak that the Treasurer can so aptly put into a spin on this to try to offset the facts. Let me put it simply. In this budget, the net increase in revenue from the tax rate increase is $34 million in a full year. On top of that, with the smoke and mirrors and the offsets, there is a new stamp duty surcharge on the transfer of gaming machines when a hotel is sold. One of the flaws in that measure is what the value of those hotels will be if people sell them in the future. That value may be significantly reduced, so the income base that has been projected of $18.5 million over four years, or $4.6 million per annum, may not even be there.

The Treasurer has put to the parliament a figure of $34 million, plus $4.6 million amortised over four years, which is a $38.6 million increase in tax revenue from the hotel industry alone. That is a massive hit on an industry that has done it hard for decades and has got back on track. That is $38.6 million.

The Hon. K.O. Foley: You hate pokies.

Mr BROKENSHIRE: Of course I hate pokies, because I see the social damage that they do.

The Hon. K.O. Foley: What is your point? You should be applauding me.

Mr BROKENSHIRE: The point is simply this: whether or not I like poker machines, they are here to stay, unless the Treasurer is going to reduce the number of poker machines in this state. We have to do the best we can with what the Labor Party has given South Australia. I have a proposition

to put to the Treasurer tonight, and I am sure he would have a big strong case to put to the cabinet on this matter. Given that it is projected that the Treasurer will raise $38.6 million a year more, and will spend only $34 million of that, from what I can see, that means there will be a surplus of $4.6 million a year over four years. That is the bottom line.

If the government puts $4.6 million a year into a surplus, and does not spend a dollar of that surplus, by the time of the election in 2006 it will have $18.5 million to spend on election promises. That is on top of the real surplus that it will have as a result of what we delivered in government. Sometimes I have to listen to the Treasurer talk about the black hole, but there was a real one in 1993, and we also had a general unemployment rate of 13 per cent. Youth unemployment was at 43 per cent. We had a mass exodus of young people from this state. We had run-down infrastructure. The South Australian economy then was a basket case, but it is not now, despite the message that some people put out about having to restructure it.

This state is not a basket case. This state is a success story and, wherever we look in the economic trend indicators, absolutely independent of government, South Australia has had the second fastest or the fastest growing rate for over two years. The trend indicators are fantastic at the moment. We know what it was like to inherit a situation that needed growth. All this government has to do is encourage business, and it will get a magic honeymoon. However, because it is not encouraging business, that will stop.

What is the government saying to the people who have increased cash flows but whose net equity, whose assets to liability, because of the borrowings based on their projected income, has been cut to the point now where in some cases they do not have equity? The banks are telling them that, because they have no equity, they are not going to let them expand. So, they say that if they cannot expand they will shed jobs. We have not seen that yet, but sadly we will.

We have a few other things around the corner. I know, as a primary producer, that one of the reasons we have been the second fastest growing state in the last couple of years is that we have had record crop after record crop on top of top agricultural commodity prices. We have had Food for the Future and those sorts of incentives that the former government put forward when in office that have actually created the great economy we have today—

Mr Goldsworthy: And low interest rates!

Mr BROKENSHIRE: —and low interest rates. Further, we have a very well run federal economy to the point that we all know that Australia is the success story of the world when it comes to the OECD.

Mr Goldsworthy: Why is that?

Mr BROKENSHIRE: That is because of good management. But this decision is not good management. I do not care who the players are, but the majority of them are either people who have been in the hotel industry for generations or people who have been accountants and who have seen an opportunity and grabbed it. They have put their money where their mouth is and got on with the task of delivering jobs and delivering prosperity. Certainly, they have made a little profit along the way. What is wrong with a bit of capitalism? Capitalism is healthy. Capitalism says that we have a state that is growing. But this is anti-capitalism, anti-jobs, anti-growth, and it is a great disappointment for the people concerned when it comes to taking an opportunity to grow particular industries.

In conclusion, I intimate to the Treasurer that we will support this bill because we do not have a choice, and the Treasurer knows it. As the Treasurer, as shadow treasurer, said in the 1998-99 budget debate:

> The bottom line is this. The opposition opposes this measure but given my earlier comment that we will give the government its budget because it is your decision—

and he goes on from there. Clearly we have to do the same thing. But in doing so, as the shadow minister for gambling, I ask the Treasurer to take this one request to cabinet. In fact, I hope it will go further than cabinet. I hope the parliament will take control of this. With all the promises the Labor Party made and did not make, there will be $38.6 million in additional revenue and, even with all the other expenditure, it has $4.6 million t spare. I ask the Treasurer to support a very important funding need and to increase the allocation to the charitable and social welfare fund and, in particular, to the gamblers rehabilitation fund.

It is no good the government saying what they said to me in estimates, when I asked, 'What are you doing with all the extra money you are ripping out of the system when it comes to the people who are socially disadvantaged?' I was referring to the kids who are wearing to school shoes with holes in them and the mothers who are battling to buy food for the family because a family member has a gambling problem. The response was, 'We are putting $1 million a year more into the gamblers' rehabilitation fund than you did when you were in office.' That may be so, but the government is actually gaining in revenue $38.6 million and it is putting into the gamblers' rehabilitation fund a measly $1 million out of that $38.6 million it is ripping off that industry.

If the government is serious, it ought to be putting a very significant amount of money back into that fund because, at the end of the day, a small percentage of the people are hooked on these machines and they need help. Any responsible government, any government that firmly believes in social inclusion, will certainly look seriously at the opposition's initiative, and that is to put at least a little of this money from the $38.6 million into the gamblers' rehabilitation fund. I ask the Treasurer to support this initiative because that is what those families need tonight. They probably do not have the money at the moment to have the heater on in their home. The kids are probably cold. That small percentage of people in the community may not have been fed. Most people do not have a problem with pokies, by the way, but a small percentage does. If this government is serious about those people, it ought to pump sum of this money into helping them.

This government is in Utopia compared to where we were when we came to office and, if it is serious about capitalising on the growth and opportunity that a Liberal government with hard work and support from the community has provided for this state, I urge it not to tax the hotel industry any further in the foreseeable future. If it does, it will see a lot more people on the dole queues, and then it will have to put a lot more money into Minister Key's area of social welfare, because if people do not have the opportunity they will certainly not have jobs.

Let me finally say that there are a lot of good young people out there who will be the next entrepreneurial people in this state, people such as those we see leading the hotel industry today, those who started small and grew with the South Australian community and created jobs along the way. This decision puts in jeopardy the jobs of those people working part time in hotels at the moment. I want to see those young people still going into the hotel industry. If you can

work behind a bar all night, if you can wait on people all night and still study, what a great asset you will be to the South Australian community in the future. If you cannot study because you do not have that part-time job in the hotel, you will not be the asset you could have been for this state. This measure is condemned; it is ill thought through, and the Treasurer knows it. It is knee-jerk reaction stuff, but let us try to get some commonsense out of this by looking after the gamblers' rehabilitation fund and guaranteeing the hotel industry that the Labor government will not put any further tax imposts on them in the foreseeable future.

The Hon. W.A. MATTHEW (Bright): I rise to support this bill. My main reason for supporting the bill is that it is a financial bill, and as part of the government's budget strategy it is my view that for that reason, if for no other, it deserves support to enable its passage through this house. However, having said that, there are a number of areas of concern which must be addressed. They are areas of concern which reflect on the government's very poor research, its poor information, the inadequate basis on which it has made its decisions, and its broken promises.

My colleagues who have spoken before me have already indicated to the house that this is yet another of Labor's broken promises. It is something the Labor Party said it would not do. It is yet another increase in tax. It is important to focus exactly on how detailed was that tax commitment of the Labor Party and where its origins were. In fact, the Australian Hotels Association has advised the opposition that it wrote formally to the then shadow treasurer, Kevin Foley, on 29 August 2001 concerning the Labor Party's position on a gaming tax under a Labor government. That is an entirely reasonable thing for any organisation to do in the pre-election climate. An election could have been held any time from then until April of this year, so that organisation sensibly was wanting to ascertain the facts.

They wanted to ascertain exactly what the Labor government would do if it was elected. Early this year, the association received a response from the then shadow treasurer, dated 26 January 2002—ironically Australia Day—indicating that the Labor Party would not increase taxes if it was elected to government. This was later confirmed, so the AHA tells us, in a face to face meeting with the then shadow treasurer. It received a similar commitment from the Liberal Party. Those commitments are fairly important. It is no secret in this chamber that I am a long-standing opponent of poker machines, and remain so.

The Hon. K.O. Foley: You want them ripped out of hotels.

The Hon. W.A. MATTHEW: I opposed their introduction and, as the Treasurer interjects, I would happily see them ripped out of hotels. It is well known by the hotel industry, by my community and within this parliament. What I am talking about tonight are some fundamental issues. I believe the breaking of an undertaking is a very serious issue for an incoming government. Just before the election this Treasurer indicated firmly, in writing, that he had no intention of raising taxes or introducing new taxes. Through this bill, that commitment has been broken. That sends a very bad message not only to businesses associated with the hotel industry but also to any potential investor in South Australia. That says that the rules today could well not be the rules tomorrow, even if the government says the rules will not change. That is not a good climate in which to encourage investment in this state. We have already heard this honourable member both in Opposition and now as Treasurer indicate that he wants to spend far less money on incentives to encourage the establishment of new businesses in South Australia. That is a very noble cause, but in the end it could mean far less investment and far less new business. So far, the government's track record is not encouraging in the establishment of new business in South Australia. God forbid; if they are in government for 12 months, who knows what we will see at the end of 12 months in terms of investment attraction versus—

Mr Goldsworthy interjecting:

The Hon. W.A. MATTHEW: As my colleague the member for Kavel indicates, in any 12 month period following the eight years of Liberal government we are likely to see virtually nothing. A lot of the reason for that will be that this government is demonstrating that it cannot be trusted; its word cannot be taken. It says that the situation will remain as it is, but then it moves the goal posts. The problem I have with those goal posts being moved is that I am aware that many hoteliers and family businesses have invested in the expansion of their establishments based on undertakings given by the then opposition and by the then government. Many millions of dollars have been borrowed to expand hotels and gaming venues to arrive at the facilities that are there today.

While I have previously said that I would happily see the poker machines ripped out, I have always advocated a phase-out as the only way to do that, because people invest based on the decisions of the government and known information at the time. But this changes the ball park and the game rules overnight, and it has now left many of these businesses with the threat of reduced disposable cash to be able to repay the moneys they borrowed to expand their businesses. There is a very real risk that some of the smaller operators in particular may have no alternative but to sell their establishments and bail out as a result of this decision.

I also want to talk about the basis upon which the government made this decision. On Thursday 11 July this year the government announced in the budget that the gaming tax would increase to the top level of 74 per cent from the previous rate of 50 per cent. I might add that this increase was notified to the industry participants, particularly their representative body, the AHA, only one hour before the budget was formally handed down, so that in itself indicates the amount of consultation that had occurred with that industry. As I said, I am not a supporter of poker machines, but I believe that if you make a decision that changes the rules of how people conduct their business, you must at least have the decency to speak with them about the changes you propose and give them an opportunity to react to those changes. You might disagree at the end of it, but that is the fair, decent, open, honest, accountable thing for a government to do before it embarks upon such a change.

Importantly, the changes were announced by the government after the preparation of two reports. The first of those was the 'Report on South Australian Hotels: Gaming Venue Costs Review', dated May 2002 and written by Timothy Magee. It has subsequently been referred to as the Magee report. The second report was the 'Review of Gaming Venue Profitability: Comment on Methodology', dated 19 June 2002. That was written by Allen Consultancy and has since been referred to in the debate of this bill as the Allen report. The Allen report itself was effectively a commentary on the Magee report, so it was very heavily dependent upon it. I would have thought that, if the government was going to

make this type of decision based on these reports, it would be absolutely sure of the experience and skill set of the consultants who were undertaking that work for them and be absolutely confident that it was getting the best available information.

It is here that I have some concern, because it would appear that there are some questions surrounding the drafting of that principal report, the one referred to as the Magee report. I am sure the Treasurer will correct me if my understanding is wrong, but it is my understanding that at the time of writing this report Mr Magee was employed as the manager of a small suburban RSL club in Brisbane. It is my further understanding that there is no evidence of Mr Magee having any formal accounting or economic qualifications. That in itself may not be an open area of criticism, but let us remember that this report is the basis for a fundamental decision to break a promise made by a Labor government. The government and Treasury officials have certainly been unable to provide to the opposition or the AHA any evidence to the contrary.

If the Treasurer is now able to say that in fact Mr Magee has plenty of experience in managing hotel venues, I welcome hearing him put that on the record when he replies to commentary that has occurred during this debate, and if Mr Magee has extensive qualifications in accountancy or economics, again, I welcome the Treasurer putting those things on the record. But if he is unable to put those things on the record, there is a fundamental area of concern. There is the potential that the person who has put together this report did not have the experience to prepare it in the first place. I have to say that, on close scrutiny, the report would tend to indicate that indeed the experience was not there.

I want to spend some time in working through some aspects of that report, because I believe that some issues in that report are of significant concern, particularly as that report, the principal report, was used heavily as the basis for the government's decision.

The Hon. K.O. FOLEY (Deputy Premier): I move:

That the time for moving the adjournment of the house be extended beyond 10 p.m.

Motion carried.

The Hon. W.A. MATTHEW: I might add that the AHA has obviously put a point of view to the Liberal Party but, as I have indicated, I am not a supporter of poker machines. I sought and received further input from some local hoteliers in my electorate, because I wanted to establish at first hand their situation versus the situation in the Magee report. To protect confidential aspects of their business I will refer in general terms, because I would not want any of their competitors to be able to work out the profitability of their business. I do not think that would be appropriate, but I will talk in general terms about some of the issues they have raised with me. Effectively, as I understand it, the Magee report has used the methodology of looking at a 40-machine gaming room in isolation from the other hotel operations. That in itself is a little indicative of someone who has managed a club versus someone who has managed a hotel, because you simply cannot do that. A whole range of other costs must be considered as part of the total operation; you must look at the proportion of management, administration, rentals, council rates, telephone, advertising, printing, stationery, repairs and a whole range of other costs that must by necessity be included as part of the gaming machine operational costs. You cannot cut out an area and say that is the cost of running and therefore this is their profit: you have to defray the costs of the total operation across that gaming venue as well.

Interestingly, the report looks at the size of a gaming venue and considers a size of 100 square metres for a gaming machine venue. From looking at hotels in my electorate and talking with my colleagues about hotels in their electorates, it would appear that, again, 100 square metres seems to be more indicative of a club than a hotel. The hotels in my electorate have gaming rooms more of a size of 200 to 300 square metres. So, I think the report is flawed because it does not assess all the costs or the correct area of gaming machine rooms.

The report goes further to look at the capital costs of establishing a successful gaming machine operation (as it should), but some of those costs (based on information put to me by local hoteliers) have been grossly underestimated. I am told that an asset base of $3.95 million has been assumed. One of the hotel owners in my electorate has put to me that across their group their asset base minimum is more like $8 million, not $3.95 million. When you consider that those hotels have upgraded, have borrowed money to build their asset to the new base at which it has arrived based on their known income and the assurances given by 'Kevin Foley opposition treasurer'—that is how he signed his letter to them—and the assurances of the former Liberal Party treasurer (Hon. Rob Lucas), many of these hoteliers went ahead and borrowed money expecting to have the income to pay it back. Because this report so fundamentally underestimates the value of their asset base, it has put those businesses immediately at a disadvantage, and they will be in a most precarious situation if the government persists with the direction it has taken.

I am told by local businesses that the claim of a 1 200 square metre average hotel floor area is again way out. One of the groups to which I have spoken in my electorate has a square metre average of between 1 800 and 4 300—a long way above the 1 200 assessed in the so-called Magee report. The report also claims that 51 car parks are needed for a gaming venue. This concerns me, because the consultant is from interstate. He did not take the time nor make the effort to acquaint himself with South Australian planning requirements because, if he had, he would know that 51 car parks in planning terms would not be an allowable allocation for any of the sort of developments that we are talking about. This report is fundamentally flawed in this area—again, it is wrong—but it is the report on which the government has based its decision.

There are also claims in relation to wages. The Magee report claims that four people a week at $450 a person is needed to run a gaming room. One of the hotels in my electorate volunteered to me that the cost of running their gaming room is $400 000 per annum. I said, 'How can the Magee report have got this so wrong? There is an enormous difference between the two.' They said, 'It's quite simple: this person has not included all the staff necessary to run our establishment. For example, no consideration has been given to security staff who are needed to be there in the running of a gaming venue.' They might not be needed in a club, but they are needed in hotel venues of the size that operate in South Australia.

Most alarming of all is payroll tax. Again, if this consultant had done his homework, he would have at least looked at payroll tax in South Australia and realised that it is different from that in his home state. He quotes a payroll tax of 1.5 per

cent. The Treasurer knows that is not right, but this is the report on which the Treasurer has based his calculations for an increase in tax.

This leaves me with a dilemma. I am a strong, ardent opponent of poker machines. I have indicated to the house that I would love to see them phased out—ripped out of hotels. However, at the same time there must be honesty and accountability in the process of government. First, if government makes a promise of this nature it should keep it; but, secondly, if the Treasurer indicates that the government wants to break that promise, he should at least have the decency to consult with the people affected and use consultants with appropriate expertise, experience and academic qualifications in the industry on which they are reporting, and they should do their homework. They should come to South Australia and find out how many car parks are required under South Australian planning regulations and how much our payroll tax is; otherwise, it means that the basis on which this decision has been made is fundamentally flawed.

I have indicated from the outset that I am prepared, despite all that, to support this bill only because I respect a government's right to be able to have unimpeded carriage of bills that are essential to its budgetary process. However, I put to the Treasurer that he has a serious problem. He has a report which appears to be flawed. I have put a number of things on the record today, and I look forward to the Treasurer's response. If he would prefer to respond to some of those points in his reply to the second reading debate, I will happily receive that information. If not, I am prepared to come back during the committee stage to ask the Treasurer detailed questions so that we can ascertain just how reliable the Magee report is in providing the information on which this decision has been taken. At the end of the day, this bill severely damages the reputation, honesty, integrity and probity of this government.

Mrs MAYWALD (Chaffey): I rise tonight to contribute to the debate. I have a couple of concerns—one in particular—about the measure. Coming from a small business background, I understand the difficulties that businesses face in maximising their cash flow and building into their forward projections their capital expenditure and growth projections. Any business has the right to know what their up and coming costs will be in future years as far as fixed inputs, taxation, electricity and public liability are concerned. They expect moderate increases; they certainly do not expect huge hikes in one hit.

Our hotel industry, along with many businesses in this state, in the last 18 months has had to face not only this huge hike in poker machine tax but also huge increases in public liability insurance and electricity costs. These increases have all impacted on their bottom line and made it difficult for them to budget for up and coming years. Businesses that have made investment decisions based on cash flows that they expected to be coming through their registers are now finding it extremely difficult to meet their commitments—and I feel for them. We need to provide a sense of security and understanding that we are supportive of new investment in this state, and we cannot do that if we do not provide a secure business environment.

I am pleased to say that the measure has been marginally reduced, and that has certainly had an impact in my electorate. I am pleased to put on the record that the community hotels in my electorate have benefited from the change in the marginal rates. I am fortunate in my electorate that, of the five hotels in the major Riverland towns, four are community owned, and as community owned hotels they are not-for-profit organisations. They are mostly extremely successful businesses. There has been an enormous amount of investment in my community in establishing new facilities in the townships of Renmark, Berri, Loxton and Waikerie where the community hotels are situated.

The Berri Hotel has had substantial extensions in recent times and a complete new makeover. It is also investing in a new outdoor cafe-cum-tourist venture in partnership with the local council which will be a great asset to the town. Renmark has recently built a new convention facility and upgraded its motel facilities, and Loxton has had a complete makeover, as has Waikerie. All this has been possible through poker machine revenue, amongst other revenue, but what those developments do for our townships is increase the wellbeing of the town in a number of ways. Not only do they provide excellent tourism facilities and excellent facilities for the townships, but they also return the profits that they make back to the community in things like sporting club and special events sponsorships and community project support. In particular, the Renmark Hotel has made a very big commitment to the community of Renmark by pledging $20 000 per year to the local hospital, money that will go towards upgrading the acute facility at the hospital. It is a substantial commitment and it is one of the benefits of the Riverland region having the hotels in the ownership of the community.

The change in the marginal rates to the taxation regime has had an immediate impact on Berri. The Berri Hotel was intending to employ a marketing officer, a position that needed to be filled not only because of the expansion of the business into the cafe and tourism venture but also because of the recent decision to acquire the Renmark Country Club and its plans to make that once again a worthwhile tourism destination. As a result of the government's original announcement, that position was withdrawn. I am pleased to say that the change in the rates has meant that that person has now been employed and the region will certainly benefit. The negotiations that are under way for the Berri Hotel to purchase the Renmark Country Club would have been significantly impacted upon had the marginal rate not been reduced. The taxation obligation on the Berri Hotel has still increased; however, that extended obligation has been reduced by half, which will certainly pay dividends in the community.

It is very important that community hotels and not-for-profit organisations maintain a differential rate. The significant contribution that these organisations make to the communities in which they operate cannot and should not be underestimated. A wicked grab for tax from an organisation that puts back into its immediate community is to be discouraged, and I certainly would not have been able to support such a measure.

Mr BRINDAL (Unley): It is always a great pleasure to follow the member for Chaffey, who is known to all members of this house as being a person not given to purple prose—something of which I have been accused. She has never been accused of being an excessive person or one who is other than reasonable. I suggest that all members, particularly those opposite, take notice of the member's contribution because, whilst some of us on this side of the house may be written off as merely your opposition, the member for Chaffey is not: she is an Independent member. She is capable of independent

assessment and has just given a very erudite assessment that I suggest is worth taking notice of.

I will not contribute for the full 20 minutes on this debate (my colleagues have said nearly all that is necessary) but I will make a brief contribution on this basis. Many people in the hotel industry know that I did not support the initial introduction of poker machines, and I did not do so not because I did not support gambling, not because I have any great moral conviction against poker machines, races or any other form of gambling, but simply because, as I explained to the Australian Hotels Association at the time, I thought it would be a con. I thought it would be another revenue-raising method by the government, so that it could get its hands into the cash register of hoteliers and rip them off right, left and centre.

Indeed, I believed I had some evidence for that belief in the installation of TAB facilities in hotels. Many hotels introduced TAB facilities because they had to, only to find that, if they were making any profits at all, they were marginal. Some hotels argued that it was a cross-subsidy of the government. They found those facilities necessary but actually lost money on them. I truly believed that poker machines would be another method of government taxation, using the private sector to collect it. I was absolutely and completely wrong. Poker machines revitalised the hotel sector, provided employment and made hotels that were virtually unsaleable into profitable businesses again. They gave the hotel industry something back after we had spent years moralising, proselytising and telling them that patrons could not have more than 0.05 in their blood when they were driving. We gave the hotels all sorts of moral claptrap.

I find that very interesting, from a place whose main profit margin used to be the number of kegs that were sold in this place. Members in this place were legion for some of their habits—not now but in those times—but we have moved on. We almost destroyed the hotel industry and the poker machines were a revitalisation of that industry. I recall that the last government had a very celebrated luncheon with the hotels industry, because it decided that it would marginally increase the take from poker machines. I do not think that was unreasonable; it was all guesswork when it was introduced and nobody realised how profitable it would be. I think even those 'robber barons', as I believe the Treasurer described them, did not realise how big the cave was.

So, there was a realignment of the profits, and the government gave its word that it would not touch those profits until the election. During the election campaign the Treasurer, as the then shadow treasurer, wrote to that same industry and said that it would not touch it—yet, not two minutes later, the Treasurer did just that—this Treasurer who had given his word to the hotels industry. The hotels industry is a very clever industry and it is very generous to both sides of politics and, I hope, equally so.

I wonder whether the industry did not help the Labor Party a little more this time than it helped the Liberal Party. However, having helped the Labor Party, its trust was repaid by comments such as, 'They're robber barons, and I make no apology to these people for robbing from the rich and giving to the poor.' We have Robin Hood Foley, who is sitting over there, taking all this money from these greedy, grasping, rapacious people to give back to those who are more deserving. Clearly, that is wrong. What has happened is immoral. I do not blame the Premier, because I think he has been led up the garden path by the Treasurer. I am quite sure that the Premier is a person of great integrity, and I do not think he would stand having a Treasurer who would collect money from people and then lie to them.

I am a member on this side of the house who believes there is nothing wrong with profit at all. People have made an investment in the hope of receiving a reasonable return. They have to satisfy their bankers, they have to pay wages to their staff; they have to do all those things.

Mr Hanna: Is 20 per cent enough for you?

Mr BRINDAL: I do not make any profits out of poker machines at all. I have no interest in the industry.

An honourable member interjecting:

Mr BRINDAL: I do not know that it is. The industry had a degree of certainty guaranteed by the former government, guaranteed by this government, and against that degree of certainty they made plans, as the member for Chaffey said. The people concerned in the industry made commitments and undertook borrowings and did all the things that businesses do, only to find that when they got up one morning the Treasurer had had a rush of blood to the head and the whole climate against which they operated had changed. I do not think that is very fair. They could have at least been given some degree of notice—say, a year or two, or more.

I was offended by the moral argument and the absolute hypocrisy in which all Australian governments indulge with respect to smoking: that it is this insidious evil and, because of that, it can be taxed in ever increasing amounts on the ground that it is being taxed for the public good. God help the day that Australians give up smoking, because a huge revenue stream will be lost. It is gross hypocrisy to tax smoking out of existence and not to allow people to give up smoking because we need the revenue stream. The same situation can be applied to poker machines. I am tired of the number of members who stand up in this place and say that, if they had their way, they would vote poker machines out of existence. I wish they would because, if they want to do that, I will support them. They are hypocrites.

I understand that the revenue that comes painlessly from poker machines is now absolutely essential to the running of the South Australian government. But I do not pretend otherwise. I am not a leader who comes in here and says, 'This is an insidious evil; let us get rid of it,' knowing darn well that 50 per cent of the house will not vote to get rid of it and, if they did, he would change his tune tomorrow. That is hypocrisy. It is also hypocrisy to say that poker machines are this great evil. There may be some problem gamblers in South Australia, and those problem gamblers undoubtedly need help, but how many decent South Australians play poker machines because it is their relaxation, and it is what they choose to do?

If the revenue we get is a part of the revenue of the poker machines (and surely it must be), the revenue going through those poker machines is enormous; and it is mainly put there not by problem gamblers but by ordinary South Australians who like to go and play the poker machines and have a cheap meal; it is their form of entertainment.

I am sure that the Premier, in his electorate, has some particular venues that are very popular with his electorate. If he wants to close them, let him go out into his electorate and tell all the people who patronise those places that he morally disapproves of those places—

Mr Koutsantonis interjecting:

Mr BRINDAL: The Premier may go and tell them that he disapproves of those places; that he actually disapproves of the lifestyle that his people in his electorate choose to live; or that they have to be closed because, although 99 per cent

of them can handle it, 1 per cent cannot and, for the sake of that 1 per cent, we have to close these venues down. I do not understand this place. I do not understand a place—for the member for Mitchell's benefit—that can argue on the one hand that these machines are evil, but run away with the profits—

Mr Hanna interjecting:

Mr BRINDAL: Well, I am glad. The member for Mitchell and I agree on one thing—the longer I am here the less I understand it. We run away with the profits; we apply them to schools; we apply them to hospitals; we say we are going to help problem gamblers with their problem; we say we will solve all the problems of the world with the profits; but then something like half of us (thank goodness) still want to close them down. We say we want to get extra revenue from this measure for the government, and we do it by saying that these machines represent some sort of invidious evil—

Mr Koutsantonis interjecting:

Mr BRINDAL: Well, robbing from the rich to give to the poor—if the member for West Torrens wants, we can guide him through the *Hansard*, and I can quote a number of people—

Mr Koutsantonis interjecting:

Mr BRINDAL: I am talking about the Treasurer. The Treasurer said he was robbing from the rich and giving to the poor. Can the member for—

Mr Koutsantonis: The Treasurer said that?

Mr BRINDAL: Yes.

The DEPUTY SPEAKER: Order, member for West Torrens. The member for Unley has the call.

Mr BRINDAL: Thank you, sir. The member for West Torrens was trying to assist me but, as usual, he was getting me quite confused. The point I want to make is simply that this is a measure that is not fair. It is a measure that I do not think has been introduced properly in due process, and I absolutely hope that, coming up to the next election, the Hotels Association remembers what their friends did to them straight after the election. They would have supported the Labor Party; they would have supported the Liberal Party; and I absolutely hope that they have long memories. I hope they reduce the donations they make to the Labor Party next time by the amount of revenue they lose in the next three years by this measure. Because if they do that, they will be sending the Labor Party a bill, and the Liberal Party will benefit mightily. It is not about that, but it is about honour. It is about, for the benefit of the member for West Torrens, writing letters to people and saying you will not do something in government and then honouring your word.

Mr Koutsantonis interjecting:

The DEPUTY SPEAKER: Order! The member for West Torrens will get more than a caution shortly.

Mr BRINDAL: The member for West Torrens used the word—

The DEPUTY SPEAKER: The member for Unley should not provoke the member for West Torrens as he does not need much to get him going. So the member for Unley will stick to the bill.

Mr BRINDAL: Well, I will stick to the bill, sir. But in sticking to the bill I have spoken about the word 'honour', and the member for West Torrens apparently thinks there is some honour in writing down 'this is my promise to you' and then breaking it; and he does that on the grounds that for four years the government accused us of doing the same thing. And when it got to government, it was going to be honest, open and accountable—those are three words we hear on a daily basis. They are three words that we can chant almost as a mantra from the government.

Well, if the government is honest, open and accountable, how does it start governing with a Treasurer who writes a letter saying that it will do (a) and two days later does (b)? If that is the degree of honesty of the member for West Torrens, then this government really needs to rethink itself. The Treasurer looks tired, sir, and wants to go to bed. I think I have said enough.

Mr HAMILTON-SMITH (Waite): I want to make a brief contribution principally on behalf of the two hotels in my electorate, the Edinburgh and the Torrens Arms, which will suffer from this bill; but I also want to do so on behalf of all the hotels in South Australia that provide a valuable asset to the tourism industry for which I have shadow ministerial responsibility and for which I will always speak up.

I simply say that this bill begins with a misunderstanding—the Treasurer's definition of net gambling revenue. The Treasurer thinks net gambling revenue is the difference between the amount of all bets made on gaming machines and the total amount of all prizes. That is the minister's understanding of net gambling revenue.

Let me just point out to the Treasurer that, if more members opposite had run a business, they might understand this—that net revenue actually has a fair bit to do with your overall debt structure; that your profits are a function of the amount of money you have coming in and the amount of money that you have going out. If the Treasurer really wanted to strike an appropriate piece of legislation, he would have reconsidered his definition of net gambling revenue to include the massive debt that so many hotels have struck in order to renovate, to refit in order, and to reinvent their businesses, both in the city and in country South Australia, to make their businesses more available, more pleasant and more enjoyable for their patrons.

If the Labor Party really understood anything at all about business, it would understand that you cannot strike a tax like this without considering a business's overall debt structure, and it would have approached it from a much more sensible standing. As the leader and other members of the opposition have pointed out, the government simply did not understand what it was doing. It does not understand the unintended consequences; it does not understand that it has whipped goodwill from these businesses; and it does not understand that these businesses in some cases are not rolling in cash, and that because of the debt structures either for purchase or for renovation they are actually strapped. What they have simply done is take the cream off the top and left the businesses to struggle on with what is left.

For some very profitable venues, the Treasurer's understanding of the situation may be plausible. But, for the other 95 per cent of venues, the government has clearly shown it has no idea about business. I just remind the house what the fabulous benefit that renovation of all these hotels has delivered to the tourism industry, which employs over 42 000 people and generates something like $3 billion or more for the state. It is one of our most vibrant and successful industries. In fact, it is more important to the state than the car industry when you count the number of jobs and the turnover. It is more important to the state than the wine industry. It is actually one of our most significant businesses; and hotels are right in the thick of it.

But, of course, that vibrant heart of the tourism industry and its infrastructure has now been shaken to its foundations by this bill. The slowing that will inevitably occur in redevelopment of hotels and in hiring of new staff, will fit with the $16 million worth of cuts that have been made by this government to tourism more generally in events, marketing, business development and infrastructure to set the tourism industry back—to stop the momentum that has been achieved.

As shadow minister for the arts, I remind the government and the house that hotels also provide valuable and important venues for artists and for arts events; that everything from cabaret to comedy to larger shows are often held in hotels (both in the city and in the country), and that these venues have largely been redeveloped and reinvented using gaming revenues. The government is not only slapping the hoteliers in the face with this bill, but it is also putting back the cause of the tourism industry and the arts. I lament that setback, which no doubt will play a part in fulfilling the government's budget stipulated anticipation that economic growth and employment will slow in the first year of this Labor government. It is not hard to see why, because the very initiatives that this budget has taken will ensure that occurs.

Let me remind the Treasurer that turnover is not profit. Turnover is not money in the bank. Turnover does not make you a baron. You cannot consider turnover without considering your cost structure. Why was this implemented? In the words of the Treasurer, 'Because I can. I have implemented this tax because I can.' I think it is a fairly poor argument. As my colleagues and the Leader of the Opposition have mentioned, the signal that has been sent not only to the hotel industry but to business around the state is that this government cannot be trusted, that this government will promise you one thing, it will put it in writing, and then it will turn around and rat on you once it is elected. I ask the hotel industry leadership to reflect upon the events of the last six months and particularly upon this bill. I ask whether it was wise to support Labor Party candidates during the last election and whether, in a sense, it has financed its own undoing.

I put it to the hotel industry that in the run-up to the next state election it might consider very carefully whether it is best to back a party to win which you know will do the right thing by the economy and which you know will do the right thing by business, or whether it is prudent to have a bet each way. I remind the hotel industry that it would have only needed a greater effort in one seat to bring about a different outcome at the last election. The hotel industry might have been able to contribute to the winning of that one seat and it might have changed the whole landscape in respect of the legislation that it now faces.

As the leader and my other colleagues have pointed out, all members in the house, and even the industry, would have accepted (as they have) that there may have been an argument for a small increase in taxation on poker machines and that that might have been seen as reasonable, but the greedy tax grab constituted in this bill goes far and beyond that reasonable small increase that might otherwise have been. Why is it so? It is so because we have a Labor government and indirectly the hotel industry helped that government to be elected. I say to the hotel industry, 'If you run into the next election thinking that you can trust Labor, you can do it again and have a bet each way; and, if you think they'll be kind to you regardless of what happens, be cautious. Remember the events of 2002.' This government cannot be trusted when it comes to business, and this bill proves that.

To the Edinburgh and Torrens Arms hotels in my electorate which have, as have so many hotels, suffered an enormous setback as a consequence of this bill, I say, 'Thank you for your representation.' To the others who have contacted me and indicated their concern, in particular the suppliers and contractors who have contacted me, many of them in my electorate who have lost business, in some cases amounting to figures in excess of $100 000 or more—cleaning contracts, contracts to provide light fittings and electricals to hotels, contracts to provide other services to hotels—who have had those contracts set aside because redevelopments have been cancelled (and I am thinking of several businesses in Panorama in my electorate that I know are distressed and have had to put off staff), I say 'Thank you for making your representation to me. I remind you when you read this *Hansard* report that you are dealing with a government that does not care about you and your small business. You are dealing with a government that will lie to your face,' which is what it has done in dealing with this matter. I oppose the bill, and I think in the fullness of time it will be shown to have reflected very poorly on this government.

The Hon. K.O. FOLEY (Treasurer): I thank members for their contribution. I do not intend to speak for long but just to make a few observations if I can. The opposition has indicated its support for the legislation, but of course in every speech members opposite spoke against it. Unlike the Labor Party, the conservative parties of Australia do not have a history of necessarily supporting government budget measures. Members opposite are free to vote against this measure if they feel so strongly about it. It would not be an outcome I would desire, but they are free to vote against it.

The Hon. I.F. Evans interjecting:

The Hon. K.O. FOLEY: I am thinking of the commonwealth government actually when it opposed the Dawkins budget some years ago. Nonetheless the government accepts and welcomes the opposition's support, although the member for Waite says he was not supporting it. I do want to make a few comments. Many comments have been made and there has been much debate about this issue. I do not intend to canvass much of that debate that has occurred over the past month or so since the budget, but I do want to say what has already been put on the public record. That is, I did write to the AHA—I have made no secret of that—and the Labor Party received a significant financial donation from the AHA in this state. The Liberal Party also received a significant donation from the AHA. However, I do not tie donations to government policy. The Liberal Party—

Mr Hamilton-Smith interjecting:

The Hon. K.O. FOLEY: Exactly, and the Liberal Party does; the Liberal Party ties donations to policy—

The Hon. I.F. Evans: Prove it.

The Hon. K.O. FOLEY: You have attacked me over the fact that the Labor Party receives a donation, writes a letter, but we do not allow that donation to influence—

The Hon. I.F. Evans interjecting:

The Hon. K.O. FOLEY: Rob Lucas did.

The Hon. I.F. Evans interjecting:

The Hon. K.O. FOLEY: He is the shadow treasurer; Rob Lucas raised it. The point is that political donations do not influence policy outcome in the Labor Party. The Liberal Party may have a different approach. Maybe for $100 000 from the AHA you can buy the support of the Liberal Party, I do not know; that is a decision for the Liberal Party.

Mr Hamilton-Smith interjecting:

The DEPUTY SPEAKER: The member for Waite is out of order.

The Hon. K.O. FOLEY: The point is that I came into office and I was confronted with a very severe budget problem. I had a budget structurally unsound, significantly in deficit and I had to do something about it. I could cut significant government expenditure—and I did—but I still needed to raise revenue. I did not want to do it, I agonised over it, I sought further advice, and then I had to do it, because the job of a Treasurer is not an easy job. As I have said in this house before, I could have taken an easy option, run budget deficits, run cash deficits or increased the accrual deficits, but I have a financial responsibility to provide a sound budget position for this state. I was faced with a number of revenue options. The government decided to rule out an increase in the emergency services levy. There were very few revenue raising options. It was not popular with the hotel industry. As I said, I agonised over it; it was not an easy decision.

I can say, and have said before, that, like almost every member opposite who spoke on this bill, you speak with forked tongues. You say one thing here tonight but have demonstrated something very different in all your years in this house. The member for Bright lectures me about the hotel industry and investment, when he advocates ripping out the machines! From my recollection of earlier debates by the member for Bright, he was not even that keen on compensating hotels for it. That was his policy position! The member for Mawson I am sure has lectured us many a time about the evil of poker machines. Many members opposite—not all—have lectured us. I can tell you who was standing in this parliament, in this chamber, with a handful of members opposing a freeze on the number of poker machine venues in this state: it was me! Even the AHA itself copped the freeze, but I did not because I thought it was wrong, was bad policy and overall was not healthy for the industry. Who has been one of the biggest supporters of the hotel industry in this parliament? Me!

Mr Hamilton-Smith interjecting:

The DEPUTY SPEAKER: Order, member for Waite and member for Kavel!

The Hon. K.O. FOLEY: I can remember when Stephen Baker decided to increase taxes for poker machines in this state: there was a huge hullabaloo. In the end the AHA sat down with the government and negotiated an outcome for it. I fully remember when John Olsen would come in here and say, 'Enough is enough,' and would speak about the evils of poker machines in this state and would introduce freezes. The AHA sat down with the government and got an outcome it could live with. I opposed that freeze and was one of the few politicians left standing. I do not have any problem standing here today and debating the hotel industry in this state.

Given comments made earlier that the hotel industry was on its knees in 1992, not all—as quite a few Liberals voted with us—but most members opposite blamed the Labor Party for that. I was not in the parliament, but a Labor member of parliament, Frank Blevins, brought that legislation into this parliament and got it through with the overwhelming support of the majority of Labor members of parliament. We have been criticised roundly by Dean Brown—the member for Finniss—and the members for Bright, Mawson, Goyder and others. The Labor Party was prepared to bring poker machines into this parliament, and we have copped criticism time and again from the conservative politicians in this parliament. The Labor Party, the government, has made a decision to increase taxes and for that we have earned the wrath of the hotel industry.

Mr Goldsworthy: And then you change your mind as well.

The Hon. K.O. FOLEY: That is how it will be and there is not much that I can do about that—I do not resile from our decision to increase revenue from hotel operators in this state. There was criticism, understandably, from the hotel industry about elements of the tax increase, criticism of the Magee report and criticism of the way the government went about it. After a number of meetings I challenged the industry to come back to us with an alternative proposal that still enabled me to reach my revenue options. As I went through in detail in press conferences, press releases, and statements in the house, we encouraged the industry to come back to us with a proposal, which meant my revenue options still remained in place. They came back to us and the proposals we are putting in today are the proposals negotiated between the government and the hotel industry, just like the hotel industry did in the mid 1990s with Stephen Baker. It came back with a counter proposal. We worked through it and our revenue numbers and have made adjustments in line with those proposals, with our revenue requirement still in tact. Criticisms and concerns about the Magee report are no longer at issue, given the adjustments and alternative proposals put in place. With this proposal we believe the industry can deliver a sustainable industry. It is highly unpopular among some hotel operators, but the vast majority—

Mr Hamilton-Smith: Which hotels have welcomed it?

The Hon. K.O. FOLEY: The vast number of hotel venues and clubs that get a tax cut. On my advice 33 per cent of hotels face a super tax rate and 31 per cent face a moderate tax increase of the venues that are affected. In reality many hotels receive a tax cut. I have not got a lot of thanks from them, I might add, although a few have written to me. Publicly one wonders why one is so generous in wanting to assist some of the smaller hotels, but we did and many clubs have gained. We will be giving the commitment—as I have done publicly and restate here—that we have no intention of increasing, and will not increase, taxes over the course of this parliament—this is it, and we will provide that certainty. I am sure it is cold comfort to the industry.

Mr Hamilton-Smith: Write them a letter.

The DEPUTY SPEAKER: Order! I warn the member for Waite. He has been cautioned, but I now warn him.

The Hon. K.O. FOLEY: I point out the hypocrisy of members opposite after telling us they would not sell ETSA. It seems that they hold the promise not to sell ETSA and try to compare it with the commitment on taxes as they relate to the hotel industry in this state. It seems that they were prepared to break a promise when it came to whether or not you sold the state's largest electricity asset, but they were not prepared to consider the position as it relates to taxing gaming venues.

The AHA needs to understand also that the former government, the former treasurer, was doing a couple of things in the last 12 to 18 months he was in office. He was looking at the scarcity of venues after the freeze came into place and at how he could tax that and get revenue from hotels to take account of the scarcity value. Do you know what he did just months before the election? He worked on his own tax proposal—his own super tax proposal.

Mr Goldsworthy: You don't know that.

The Hon. K.O. FOLEY: I do know that. He had his own proposal being worked up and, mindful of the fact that they

had a commitment that they would not raise taxes in their last term of government—

Mr Goldsworthy: Fairy stories.

The Hon. K.O. FOLEY: Well, you think that.

Members interjecting:

The DEPUTY SPEAKER: Order! The members for Mawson and Kavel will be warned in a minute.

The Hon. K.O. FOLEY: The former treasurer knows he was working up an option. He will say that he was not going to implement it—fine. The truth is that he had his own proposal. The Treasury office and department, on the former treasurer's instructions from what I can ascertain, were working up tax options for the former government. The former government knows that. The former treasurer admitted on radio that it was looking very carefully at how it could attract or put in place a mechanism in place to collect the scarcity value of venues, but also as a government he was working a super tax not that much different to the proposal I put in place.

Mr Goldsworthy: Lucas wrote a letter to the AHA.

The Hon. K.O. FOLEY: Of course, and that is fine.

The DEPUTY SPEAKER: Order! I warn the member for Kavel.

The Hon. K.O. FOLEY: The former treasurer was working up an option. He may not have wanted to implement it in this parliament because he wrote a letter—that is fine. Whether people accept it or not, I maintain this position: had I not further taxed the hotel industry I would not have been doing my duty as the Treasurer. However, I had to raise revenue, and it was an option that I could not ignore. I was not aware of the super tax position prior to getting into government, and I believe that, had I not been prepared to do it, I would not have been doing my job properly. Members can disagree and they can criticise me—plenty of them have. I am sure that the hotel industry does not wish to have any further dialogue with me. That is fine; I can live with that. The bottom line is that I have done what I think is right. It was not an easy decision. It was one I agonised over but it is one that I do not resile from.

Bill read a second time.

In committee.

Clause 1.

The Hon. I.F. EVANS: If the Treasurer agrees, the opposition is happy for him to move all the government amendments en bloc. The Treasurer is aware that I have a letter from the Hotels Association's legal advisers. I want to raise a series of questions from that letter so that, over the next seven weeks, the Hotels Association can consider the Treasurer's answers and deal with the legislation appropriately in the upper house. Then I wish to deal with the government's amendments. We can do it in three easy blocks if that is of any assistance to the committee. We could deal with the government's amendments in one block, because I do not intend to argue every one, and, to make it simpler for the Treasurer, it might be easier to do all the amendments first and then take questions on the letter, rather than flick through each page of the bill trying to work out where we are. If that helps the committee and the Treasurer, I suggest that process to make it simpler for everyone.

The Hon. K.O. FOLEY: I agree.

Clause passed.

New clauses 1A to 1O.

The Hon. K.O. FOLEY: I move:

Page 3, after line 3—Insert:

Amendment of s. 3—Interpretation

1A. Section 3 of the principal Act is amended—

(a) by inserting after the definition of "authorised person" in subsection (1) the following definition:

"beneficiary" includes an object of a discretionary trust;;

(b) by inserting after the definition of "liquor licence" in subsection (1) the following definition:

"officer"—an officer—

(a) in relation to a body corporate—means a director or a member of the governing body of the body corporate;

(b) in relation to a trust—means a trustee;;

(c) by inserting after the definition of "special circumstances licence" in subsection (1) the following definitions:

"trust"—a trust is considered for the purposes of this Act as a single entity consisting of the trustees and the beneficiaries;

"trust or corporate entity" means a trust or a body corporate.;

(d) by striking out subsection (2) and substituting the following subsections:

(2) A person occupies a position of authority in a trust or corporate entity if the person—

(a) in the case of a body corporate—

(i) is a director or a member of the governing body of the body corporate;

(ii) exercises, or is in a position to exercise, control or substantial influence over the body corporate in the conduct of its affairs;

(iii) manages, or is to manage, the undertaking to be carried out under a licence;

(iv) if the body corporate is a proprietary company—is a shareholder in the body corporate; or

(b) in the case of a trust—is a trustee or beneficiary of the trust.

(3) However—

(a) a minor who is a shareholder in a proprietary company, or a beneficiary under a trust, is not for that reason to be regarded as a person occupying a position of authority; and

(b) a charitable organisation that is a beneficiary of a trust is not for that reason to be regarded as a person occupying a position of authority.

Amendment of s. 8—Representation

1B. Section 8 of the principal Act is amended by striking out paragraph *(c)* of subsection (1) and substituting the following paragraph:

(c) if the party is a trust or corporate entity—by an officer or employee of the entity who has obtained leave of the Commissioner to appear on behalf of the entity;.

Amendment of s. 19—Certain criteria must be satisfied by all applicants

1C. Section 19 of the principal Act is amended—

(a) by striking out paragraph *(b)* of subsection (1) and substituting the following paragraph:

(b) if the applicant is a trust or corporate entity—that each person who occupies a position of authority in the entity is a fit and proper person to occupy such a position in an entity holding a licence of the class sought in the application.;

(b) by striking out from subsection (2) "body corporate" and substituting "trust or corporate entity".

Amendment of s. 23—Minors not to hold licence, etc.

1D. Section 23 of the principal Act is amended—

(a) by striking out from subsection (1) "Subject to subsection (2), a" and substituting "A";

(b) by striking out from subsection (1)*(b)* "body corporate" and substituting "trust or corporate entity";

(c) by striking out subsection (2).

Insertion of s. 26A

1E. The following section is inserted after section 26 of the principal Act:

How licences are to be held

26A. (1) A licence may be held jointly by two or more persons.

(2) If a licence is held jointly by two or more persons, those persons are jointly and severally liable to any civil or criminal liability that attaches to the licensee under this Act.

(3) If the trustee of a trust holds a licence for the purposes of a business conducted by the trustee under a trust—

(a) the name of the trust is to be specified in the licence; and

(b) the trust is to be considered as an entity holding the licence jointly with the trustee.

Amendment of s. 28—Certain gaming machine licences only are transferable

1F. Section 28 of the principal Act is amended by striking out subparagraph (ii) of subsection (3)*(c)* and substituting the following subparagraph:

(ii) if the applicant is a trust or corporate entity—that each person who occupies a position of authority in the entity is a fit and proper person to occupy such a position in an entity holding such a licence.

Insertion of s. 28A

1G. The following section is inserted after section 28 of the principal Act:

Condition requiring payment of gaming machine surcharge

28A. If, on the Commissioner's consenting to the transfer of a gaming machine licence, any gaming machine surcharge payable under the *Stamp Duties Act 1923* in respect of the transfer of the business conducted under the licence has not been paid, it is a condition of the licence that the surcharge be paid within the period allowed under that Act.

Amendment of s. 36—Revocation or suspension of licences, etc.

1H. Section 36 of the principal Act is amended by striking out paragraph *(g)* of subsection (1) and substituting the following paragraph:

(g) in the case of a licensee that is a trust or corporate entity—a person who occupies a position of authority in the entity is not a fit and proper person to occupy such a position in an entity holding such a licence; or.

Amendment of s. 38—Commissioner may approve persons in authority

1I. Section 38 of the principal Act is amended—

(a) by striking out "a body corporate" and substituting "a trust or corporate entity";

(b) by striking out "the body corporate" and substituting "the entity".

Insertion of s. 38A

1J. The following section is inserted after section 38 of the principal Act:

Condition requiring payment of gaming machine surcharge

38A. If, on approval by the Commissioner of the assumption by a person of a position in authority in a trust or corporate entity that holds a gaming machine licence, any gaming machine surcharge payable under the *Stamp Duties Act 1923* in respect of a transaction related to the assumption by the person of the position has not been paid, it is a condition of the licence that the surcharge be paid within the period allowed under that Act.

Amendment of s. 39—Commissioner may approve agents of the Board

1K. Section 39 of the principal Act is amended by striking out from subsection (3)*(c)* "or an object of a discretionary trust".

Amendment of s. 42—Discretion to grant or refuse approval

1L. Section 42 of the principal Act is amended by striking out from subsection (4) "body corporate" and substituting "trust or corporate entity".

Amendment of s. 48—Offences relating to management of business or positions of authority

1M. Section 48 of the principal Act is amended by striking out from subsection (2) "body corporate" and substituting "trust or corporate entity".

Amendment of s. 51—Persons who may not operate gaming machines

1N. Section 51 of the principal Act is amended by striking out "body corporate" wherever occurring and substituting, in each case, "trust or corporate entity".

Amendment of s. 68—Certain profit sharing, etc., is prohibited

1O. Section 68 of the principal Act is amended—

(a) by striking out from subsection (1)*(b)* "enters into" and substituting "is party to";

(b) by striking out from subsection (2) "body corporate" and substituting "trust or corporate entity";

(c) by striking out from subsection (4)*(c)* "becomes a" and substituting "is".

New clauses inserted.

Clause 2.

The Hon. K.O. FOLEY: I move:

Paragraph (a)(i) of the definition of "prescribed gaming tax", page 4, Part 2 of the table, second column (Adjustment), fifth row—Leave out "14.09%" and insert:

6.59%

Paragraph (a)(i) of the definition of "prescribed gaming tax", page 4, Part 2 of the table, sixth row—Leave out the sixth row and insert:

For NGR of more than $1 250 000 but equal to or less than $1 750 000 for the second 6 months	add $32 325.25 plus 16.09% of the excess NGR over $1 250 000
For NGR of more than $1 750 000 for the second 6 months	add $112 775.25 plus 24.09% of the excess NGR over $1 750 000

Paragraph (a)(ii) of the definition of "prescribed gaming tax", page 5, Part 2 of the table, second column (Adjustment), fifth row—Leave out "14.09%" and insert:

6.59%

Paragraph (a)(ii) of the definition of "prescribed gaming tax", page 5, Part 2 of the table, sixth row—Leave out the sixth row and insert:

For NGR of more than $1 250 000 but equal to or less than $1 750 000 for the second 6 months	add $32 880.25 plus 16.09% of the excess NGR over $1 250 000
For NGR of more than $1 750 000 for the second 6 months	add $113 330.25 plus 24.09% of the excess NGR over $1 750 000

Paragraph (b)(i) of the definition of "prescribed gaming tax", page 5, second column (Tax) of the table, fifth row—Leave out "45%" and insert:

37.5%

Paragraph (b)(i) of the definition of "prescribed gaming tax", page 5, table, sixth row—Leave out the sixth row and insert:

For NGR of more than $2 500 000 but equal to or less than $3 500 000 for the financial year	$770 200.50 plus 47% of the excess NGR over $2 500 000
For NGR of more than $3 500 000 for the financial year	$1 240 200.50 plus 55% of the excess NGR over $3 500 000

Paragraph (b)(ii) of the definition of "prescribed gaming tax", page 6, second column (Tax) of the table, fifth row—Leave out "55%" and insert:

47.5%

Paragraph (b)(ii) of the definition of "prescribed gaming tax", page 6, table, sixth row—Leave out the sixth row and insert:

For NGR of more than $2 500 000 but equal to or less than $3 500 000 for the financial year	$993 170.50 plus 57% of the excess NGR over $2 500 000
For NGR of more than $3 500 000 for the financial year	$1 563 170.50 plus 65% of the excess NGR over $3 500 000

Amendments carried; clause as amended passed.

Clause 3.

The Hon. I.F. EVANS: I move:

Page 6, after line 24—Insert:

(ba) by striking out from subsection (4)(a) '$2.5 million' and substituting '$3.5 million';

(bb) by striking out from subsection (4)(b) '$3 million' and substituting '$4 million';

(bc) by striking out from subsection (4)(c) '$19.5 million' and substituting '$20 million';

This amendment increases the Sport and Recreation Fund by $1 million a year and the Gamblers Rehabilitation Fund by $1 million a year, and puts aside $500 000 a year for the live music industry as a result of the report done by the previous

government. I outlined our arguments in my second reading speech, so I will not go into an elaborate debate at this stage. However, I indicate that, if the government opposes, we intend to divide on this matter.

The committee divided on the amendment:

AYES (21)

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

NOES (23)

Atkinson, M. J.	Bedford, F. E.
Breuer, L. R.	Caica, P.
Ciccarello, V.	Conlon, P. F.
Foley, K. O.(teller)	Geraghty, R. K.
Hanna, K.	Hill, J. D.
Key, S. W.	Koutsantonis, T.
Lewis, I. P.	Lomax-Smith, J. D.
O'Brien, M. F.	Rankine, J. M.
Rann, M. D.	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.

Majority of 2 for the noes.

Amendment thus negatived.

The Hon. I.F. EVANS: Obviously I will not proceed with my next amendment because it was reliant on that first amendment getting through. With the indulgence of both the Treasurer and the committee—and I thank the committee for agreeing to this procedure—I will outline what I propose to do. The Treasurer has already admitted that the bill will not be dealt with in the upper house tomorrow. So, I intend to go through the legal advice of the AHA and pose some questions to the Treasurer. That will give the AHA five or six weeks to look at the Treasurer's answers and come back to the parliament with any changes it thinks appropriate for consideration in the upper house debate. That will get us all well informed on the issue.

It is important to note that the gentleman who has written the legal advice is one of Australia's most eminent tax lawyers. I understand that he wrote the fringe benefits tax federally, that he has accounting and legal qualifications—in fact, he worked for the OECD in Paris for two years—and is now based with Thomson Playford in Sydney. So, compared with the Magee report, it—

Ms Chapman: Pales into insignificance.

The Hon. I.F. EVANS: Yes, it pales into insignificance. The parliament needs to consider very carefully the issues raised in this particular letter. In relation to the gaming tax amendments, the legal advice suggests the following:

> The proposed amendments serve to confirm that an applicant for a gaming machine licence can act in the capacity of a trustee of a trust. This was not evident from the principal act, as there was no reference in the legislation to a trust, beneficiaries or a person acting as a trustee.
>
> Subsection 19(1) (in its unamended form) provides that the Commissioner must be satisfied that an applicant for a licence is a fit and proper person to hold a licence. 'Person' quite evidently included a company because paragraph 19(1)(b) and subsection 3(2) between them describe who is, for the purposes of the act, taken to occupy a position of authority in a body corporate.
>
> It was not evident from the legislation one way or the other that either an individual or a company could apply for a licence in their capacity as trustee of a trust.
>
> However, I understand that the commissioner did grant licences to trustees. I spoke to Mr Warren Lewis, a Liquor and Gambling Deputy Commissioner, who advised me that it had been the practice of the Commissioner to license persons who were trustees but to impose a licence condition that the trustee advise the Commissioner if there were any change to the beneficiaries of the trust.

By 'beneficiaries' he meant those persons who received actual distributions of gaming machine income rather than objects as such of the trust. The verification that a person was a fit and proper person was carried out in respect of the named beneficiaries who would benefit under the trust. If a person who had not previously been a recipient beneficiary was to receive a distribution, then a condition of the licence was that a verification check be carried out on that person. According to the legal advice, Mr Lewis's view was that the amendments were being introduced to provide an appropriate legal foundation for what was now happening in practice. Further, he made the observation that the proposed amendments parallelled those in the Liquor Licensing Act, and the legal adviser has not considered whether there is a replication of the provisions but would do so if requested by the AHA. Also, each holder of a gaming machine licence had to have a liquor licence, so it made sense that the provisions were consistent.

The legal adviser then went on to discuss with Mr Lewis how he thought the new provisions in the Gaming Machines Act would operate, and it was obvious that they would continue to operate in much the same way as they operate now. The legal adviser commented that the technical requirements of the provisions were very different from the practical way in which he described their operation. Mr Lewis's comments were to the effect that, notwithstanding the technical changes, they would continue to administer the law as they do now and also as they do in relation to the Liquor Licensing Act, which already contains provisions concerning trusts. In the letter, the legal adviser makes further comments about this conversation where appropriate.

The proposed amendments identify a trust as a single entity for the purposes of the act comprising the trustees and the beneficiaries. This is a recognition of the position at law in any case. A trust has no separate legal existence apart from its relationship with the trustee. It is not immediately obvious why the statement needs to be made in the proposed amendment, unless it is meant to fit in with subsection (3) of proposed new section 26A, and the Treasurer might like to note that and comment on whether that is the reason for that provision.

A distinction is drawn between the trust and its beneficiaries for two purposes. In the first purpose, a beneficiary of a trust is treated as a person occupying a position of authority in a trust in the context of determining the class of persons who must satisfy the criterion that the person be a fit and proper person to occupy a position of authority in relation to the entity holding a licence or proposed transferee of a licence; and, secondly, extending the exclusion from the prohibition on a minor holding a licence (a minor who is a beneficiary of a trust may hold—indirectly—a licence). The

legal adviser has made the following comments in relation to the proposed amendments:

The substitute section 3(2) limits those persons who occupy a position of authority in the trust of the trustee and beneficiaries. In the context of a conventional discretionary trust deed, ultimate power is often wielded by an appointor, who usually has the power to appoint or discharge the trustee and who may or may not be a beneficiary. Sometimes this power or a similar power, e.g. to veto a distribution of capital or income, may rest with a person answering to a different description, e.g., a guardian, governor, manager etc., but the most usual situation is to have a controlling person who is described as the appointor.

The amendment does not extend the class of persons who are in a position of authority to an appointor. It is not clear why this is so. If the intent is to ensure that only fit and proper persons can control a licence, there would seem to be an imperative. However, if the intent is to cast the net to capture persons who can financially benefit from the use of the licence, then an appointor need not be included. However, including the trustee but not the appointor seems inconsistent if the true intent is to ensure the good character of the controllers of the trust.

At that point, I will ask a specific question. I have deliberately read the advice into *Hansard* so that we know the context of the questions and so that we are all clear on the background to the whole advice. I thought that was important, and I appreciate the Treasurer's patience in that regard. Will the Treasurer clarify then what is the true intent in including the trustee but not the appointor, the issue raised on page 3 of the legal advice?

The Hon. K.O. FOLEY: I am advised that the appointee is not in a position of authority as it relates to the legislation, and a trustee is. We have a copy of the legal advice that the AHA has received, but I do not think we have received it officially. My officers from the various government agencies have gone through it carefully. The advice I have been given is that the proposed amendments to the Gaming Machines Act relating to trusts are taken from the Liquor Licensing Act 1997 to provide consistency between the two pieces of legislation. To the extent that the AHA has any issues with the provisions of the draft amendments, they are effectively raising issues with the provision of the Liquor Licensing Act which has been operating effectively in its current form for five years.

The AHA noted in its comments one inconsistency with the Liquor Licensing Act with regard to the positions of charitable organisations as members of trusts. Parliamentary counsel agreed that this should be clarified and has made the necessary adjustments to the amendments. Parliamentary counsel and the Office of the Liquor and Gambling Commissioner have advised that the comments from the AHA did not require any other changes to the amendments. That is the advice that has been provided to me. If the AHA wishes to raise any other issues with us that we think require further work, it is free to do so between here and another place.

The Hon. I.F. EVANS: Thank you for that. The advice raises another question. It continues:

A beneficiary includes any object of a discretionary trust (this is one of the proposed amendments). Technically, this will extend the scope of a fit and proper person examination to all possible beneficiaries of a discretionary trust. The usual discretionary trust deed will exhibit a very wide range of potential beneficiaries (objects) of the trustee by relationship with specified individual beneficiaries, e.g., relatives of those persons, companies of which they or some other beneficiary hold a share, trusts in which those persons or some other beneficiary has an interest or potential interest (whether contingent or not). The class of potential beneficiaries will usually also extend to persons or entities not in existence at the date of establishment of the trust. The scope of the objects clause is usually extremely wide so as to give the trustee ultimate flexibility in distributing income or capital.

The advice states that it would be almost impossible for the commissioner to be satisfied that every object of a discretionary trust is a fit and proper person. The practical consequence of the proposed amendment is that the range of objects of an applicant trust would need to be severely circumscribed so that only those members capable of being identified and whose credentials may be verified are capable of being objects.

The legal adviser presumes that this practical outcome is an intended consequence of the legislation. It may go so far as to significantly limit the ability to effectively use the trust as a tax planning, succession planning and asset protection device, which are common uses of discretionary trusts. Treasurer, will you clarify for us whether the practical consequence of the proposed amendment is that the range of objects of the applicant trust will need to be severely circumscribed so that only those members who are capable of being identified and whose credentials may be verified are capable of being objects?

The Hon. K.O. FOLEY: I am advised that both measures are consistent and that the Liquor Licensing Commissioner has discretion to approve disbursements under the Liquor Licensing Act and that the same occurs under this act.

The Hon. I.F. EVANS: The legal advice on clause 3 continues on page 4:

Discretionary trusts will very often include charitable institutions as objects so that the trustee may make gifts to charity. It is not clear from the proposed amendments whether or not a clause such as including all of those charitable bodies listed in subdivision 30B of the Income Tax Assessment Act 1997 would cause a trust to fail the verification requirements since it would be impossible to identify the actual objects. The practical consequence of the proposed amendments is that objects cannot be identified by reference to class characteristics rather than name, the proposed amendments could be a significant dampener on donations to worthwhile charitable causes. Mr Lewis's comment was that, in practice, if asked and provided the gift recipient was on the list of such recipients under the Collections for Charitable Purposes Act, the commissioner would approve the distribution.

Will the Treasurer confirm that that is the advice he has received?

The Hon. K.O. FOLEY: As I said earlier, that was an inconsistency. It has been taken on board from this correspondence, and we have made the appropriate adjustments to the amendments. That has been picked up in the new amendments.

The Hon. I.F. EVANS: The legal advice suggests:

The proposed amendments do not appear to deal with a trust which holds shares in a company that holds a licence or units in a unit trust which holds a licence. The verification process extends to a shareholder, but where a shareholder is a trustee there is no application of the requirement for verification of the objects of the trust at that level of ownership.

Is that a fair reflection of the bill? Does the Treasurer think that that will create problems for the industry, and what advice has he received in this regard?

The Hon. K.O. FOLEY: I am told that that is not correct in that, if a trustee is a shareholder of a company, that still requires the directors and shareholders to be approved.

The Hon. I.F. EVANS: The legal advice comments on a similar point in relation to minors. It suggests:

It might also be argued that because proposed subsection 23(2) lists prohibition of a minor holding a licence where the minor is a shareholder in a company or the beneficiary of a trust that holds a licence a minor who is the object of a trust that is a shareholder will suffer prohibition.

Is that a fair reflection of the bill, and what advice has the Treasurer received about what problems that might cause to the industry?

The Hon. K.O. FOLEY: Again, that is not correct. The legislation provides:

> A minor who is a shareholder in a proprietary company or a beneficiary under a trust is not, for that reason, to be regarded as a person occupying a position of authority.

That means that we do not have to approve them but it does not necessarily prohibit them.

The Hon. I.F. EVANS: The legal advice continues:

> Section 19 of the act provides for verification of applicants for a licence and section 28 provides for verification as to whether an applicant for a transfer of a licence is a fit and proper person. There appears to be nothing in the act that formally requires ongoing verification that the holder of a licence is a fit and proper person.

I think the legal officer is hinting that, once you have been established as a fit and proper person, you do not have to re-establish that three or four years down the track. Is that the intent of the legislation and a fair reflection of it?

The Hon. K.O. FOLEY: I am advised that, if a person is a fit and proper person, that person remains a fit and proper person until such time as circumstances change.

The Hon. I.F. EVANS: To flesh that out a little, my layman's understanding of that point is that, if someone is originally established as a fit and proper person but if it is established at some time down the track that they are not a fit and proper person, in essence they lose their licence.

The Hon. K.O. FOLEY: They would not necessarily lose their licence, but they could because it would be established that they are no longer a fit and proper person. That discretion is with the Commissioner. A person convicted of an indictable offence can be the subject of disciplinary action or have their approval revoked.

Mrs REDMOND: I understand that the essence of the advice to which the member for Davenport refers is that, although there may be some discretionary power within the Licensing Court to review whether a person is a fit and proper person, they would have no means at the moment of actually ascertaining or verifying whether anything such as an indictable offence has occurred and that, therefore, the only time in practice where it becomes an issue is at the time of an actual transfer of a licence. Is that the case?

The Hon. K.O. FOLEY: No. I am advised that the Police Liaison Unit keeps us very well informed of such events, and they are taken into account as soon as they are made known to us.

The Hon. I.F. EVANS: The legal advice states:

> Surprisingly there appears to be nothing in the act which specifically requires a person who acquires shares in a company which already holds a licence to be subject to verification.

The legal advice basically sets out a case that, at least technically, it would appear that a person may sell and another acquire all the shares of a company which is a licence holder without the need to apply for a new licence. Again, is that a fair assessment and is that the intent?

The Hon. K.O. FOLEY: I am advised that, under the current act, a person who wants to come in as a shareholder must go through the appropriate personal processes.

The Hon. I.F. EVANS: I have one final comment to make on this bill, and I appreciate the cooperation of the Treasurer and the chair. From time to time governments go down the path of offering industry certainty in relation to taxation measures. The previous Liberal government came under some criticism regarding its announcement on the casino and the Treasurer argued that we had given a deal to the casino in relation to taxation measures. It seems to me that there has been significant investment in the hotel industry and that there could be significant investment in the future if there was tax regime certainty. The hotel industry in its letter suggests putting an amendment in the bill about the rate not being changed for the term of the parliament. The Treasurer and I know that that promise is only as good as the numbers on the floor of the house anyway.

Because I am very concerned about the message to investors in this industry, will the minister agree to obtain advice in between houses about the prospect of developing a legal instrument with the hotel industry that, by legal agreement, guarantees the promise that the government will not change the taxation regime between now and 2006 or 2007? For example, through its contract, the casino has a taxation regime locked in. In theory, parliament could overturn that. We would probably suffer a legal case and have to pay costs.

My point is that it is understandable that the hotel industry is sensitive about taking verbal promises or, indeed, written promises. I am not qualified in the legal area, but, in fairness to the industry, could there be some legal mechanism to provide the investors in the industry at least tax certainty for the next four years—whether it be a written contract or a formal agreement; whether it be a type of indenture bill that locks in the rate? I raise that issue for you to think about between houses. I know that once governments sign contracts, future governments are locked in. Given the history of this legislation, investment certainty would be a positive measure.

The Hon. K.O. FOLEY: The best legal instrument is the law that we pass here. I think there are significant differences. The sale of the casino was a point of sale in which a contract had to be entered into between the government and the entity. I checked to see whether we could tax the casino, and the former government—your government—when it chose to sell, decided to offer 15 years of certainty to the new buyers of the casino. Any adjustments we make here have to be compensated with the casino. So, that is the nature of that contract. I do not know how you contract with an organisation, particularly given that all hotels are members of the AHA. The safeguard is this parliament, and you made that point. We have no intention of increasing taxes over the life of this parliament.

I suppose it is the same issue that confronted your government in the mid-1990s, when you chose to increase pokie tax rates when you said you would not. As the former treasurer knows and as the Leader of the Opposition knows, he and his colleagues were considering a super tax on the hotel industry as recently as April 2001. At that time, a super tax in the order of $26 million a year was the option being considered by your government. You chose not to go ahead with it because you had given a commitment not to increase your taxes during that last term, but quite a bit of work was done. Fair enough, you did not go ahead with it.

Governments are always doing these things; your government was no different and the former treasurer was no different. I am sure the then deputy premier was well aware of the $26 million super tax that he and Rob Lucas were considering at the time. They chose not to go ahead with it in April last year because you had given a commitment that you would not raise taxes in the course of the last parliament. You decided not to implement it in the lead-up to the last

state election, but the work had certainly been done, because I have seen it.

Clause passed.

New clause 4.

The Hon. K.O. FOLEY: I move:

Page 6, after line 25—Insert:

Substitution of s. 85

4. Section 85 of the principal Act is repealed and the following section is substituted:

Vicarious liability

85.(1) if a body corporate that holds a licence is guilty of an offence against this Act, any person occupying a position of authority in the body corporate and any approved gaming machine manager for the licensed premises are each guilty of an offence and liable to the same penalty as is prescribed for the principal offence unless it is proved that the person could not, by the exercise of reasonable care, have prevented the commission of the offence by the body corporate.

(2) If the trustee of a trust that holds a licence is guilty of an offence against this Act, any other person occupying a position of authority in the trust and any approved gaming machine manager for the licensed premises are each guilty of an offence and liable to the same penalty as is prescribed for the principal offence unless it is proved that the person could not, by the exercise of reasonable care, have prevented the commission of the principal offence.

New clause inserted.

New clause 5.

The Hon. K.O. FOLEY: I move:

Amendment of s. 86—Evidentiary provision

5. Section 86 of the principal Act is amended by striking out from subsection (1)*(j)* 'body corporate' and substituting 'trust or corporate entity'.

New clause inserted.

Title passed.

Bill reported with amendments.

Bill read a third time and passed.

STAMP DUTIES (GAMING MACHINE SURCHARGE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 21 August. Page 1213.)

The Hon. I.F. EVANS (Davenport): I will not speak very long, because, with the permission of the house, I covered both the previous bill and this bill in my previous address. This is the second bill in relation to the government's announcements as a result of the budget process in relation to extra charges on the hotel industry and it sets up a gaming machine surcharge. When the hotel industry, in good faith, negotiated with the government to try to amend the previous bill that we have debated, on the morning of the estimates committee the Treasurer announced that the government would take approximately an extra $18.5 million over four years by way of this gaming machine surcharge.

The history is well recorded in my previous speech and, indeed, in the other opposition speeches in the second reading to the previous bill, so we will take them as a package and I will not hold up the house for any longer. We will not oppose the bill, given that it is a budget measure, but we do protest at the way that it has been handled. When we go into committee, if the Treasurer and the chair agree to adopt the same process, we can go through all the government's amendments and then, on the last clause, I will ask my questions. Again, that will allow the hotel industry to address those answers in between houses.

The Hon. K.O. FOLEY (Treasurer): I thank the member for his contribution. Again, the capturing of the scarcity value of hotel licence transfer was something that the former treasurer and, indeed, the former cabinet had considered. From my reading of files, the former treasurer was particularly keen (and he admitted as much on radio) to explore ways in which he could capture scarcity value. As both the member and the Leader of the Opposition know, it was matter to which the government gave consideration. I cannot be absolutely certain of this, but I am pretty sure that the cabinet considered this matter via a cabinet pink, if my recollection of what I have seen is correct. The former Liberal government was very keen to capture the scarcity value, as it was keen to explore super taxes.

As I said previously, I know that, had the former Liberal government been re-elected, the same advice that I received would have been given to Rob Lucas, because my advice was mainly the work Rob Lucas himself had been doing in mid 2001. Whilst I accept that in politics the opposition can make out it is holier than thou, this body of advice and work that has been done had, in large part, been prepared by the former Liberal government. It chose not to implement it in the lead-up to the election and, of course, it made the promise at the election that it would not raise taxes. But a vast amount of that work had been done, and the capture of the scarcity value was certainly one body of that work.

So, whilst I am sure that I am the AHA's number one enemy now, after Nick Xenophon—Nick did say the other day that he thought perhaps his effigy had been pulled down and replaced with mine—the AHA can be comfortable in the knowledge that, whatever the Liberal opposition is saying to them, much work was done on both the super tax and the capture of scarcity value, and that work was sitting there waiting for whoever was elected after the last state election. So, I thought I would make that point and leave it at that.

Bill read a second time.

In committee.

Clauses 1 to 3 passed.

Clause 4.

The Hon. I.F. EVANS: In relation to the stamp duty amendments, the AHA'S legal advice from Thomson Playford goes as follows:

The proposed amendments introduce further stamp duty described as a gaming machine surcharge on the transfer of a gaming machine business and interest in a gaming machine business or a notional interest through an interposed entity in a gaming machine business. The surcharge is 5 per cent of the net gambling revenue derived from the business for the last 12 complete calendar months before the date of the transfer or, if the business was not carried on during that period, an amount determined by the Liquor and Gambling Commissioner.

The advice states:

There is a very real question to be answered as to whether the surcharge is a tax on income and therefore unconstitutional.

Can the Treasurer say what advice he has taken on that question and what the advice is?

The Hon. K.O. FOLEY: As the member says, Mr Schurgott raises the issue that the surcharge may be unconstitutional on the basis that it constitutes a tax on income. It is the view of parliamentary counsel, Revenue SA and the Crown Solicitor's Office that no constitutional issues arise.

The Hon. I.F. EVANS: The legal advice goes on in regard to the various provisions and states:

It is not known whether or not the surcharge would be GST free. It must be listed as a GST-free tax in the GST Determination Exempt Taxes Fees and Charges in order to be GST free.

Can the Treasurer confirm that the surcharge will be GST free, and could he advise the time frame for listing it under the GST determination exempt taxes?

The Hon. K.O. FOLEY: I also must note that this is the third occasion that the member and I are debating matters of somewhat legal complication. I am not sure that we are best suited for that debate. I am provided with advice that it is considered that the surcharge will be GST free. A determination under Division 81 of the New Tax System (Goods and Services Tax) Act 1999 lists those compulsory taxes and regulatory charges that are not subject to GST. The current determination lists the Stamp Duties Act 1923 ('the Act') and refers to 'all stamp duties under the act'. As a consequence, it is considered that the surcharge will be GST free, and I am advised that if there is a problem it will be a simple matter to get it attached to the list.

The Hon. I.F. EVANS: In relation to the Treasurer's comments about our debating these complex legal matters, it is good to have a practical application brought to the law. In fact, I was glad that Thomson Playford raised these issues because it confirms my own thoughts on the reading of the bill.

The provisions deal only with notional interests which are interests in or through private companies and private unit trust schemes. An interest through a discretionary trust is apparently not caught under the bill. This should be compared with the extensive amendments to the Gaming Machines Act discussed in the previous bill, where the holder is a beneficiary. This is apparently so, notwithstanding the presence of proposed subsection 71EA(3) which provides that:

> If an interest that is to be value for the purposes of this Division is the potential interest of an object of a discretionary trust, the interest is to be valued as if it were the greatest beneficial interest in the property subject to the trust that could be conferred under the terms of the trust.

This suggests that interests held through discretionary trusts are to be considered. However, there is nothing else in the proposed amendments which leads the legal adviser to that conclusion. The interests which are subject to the surcharge are: an interest in a gaming machine business and a notional interest. A notional interest is a direct interest in a company or trust which holds a gaming machine business or an interest in an underlying gaming machine business traced through such interposed entities. The only possible argument that interests through a discretionary trust are included is that a transfer of an interest would include that of a beneficiary in a discretionary trust. However, to the legal adviser this is an unconvincing argument. So, it may appear that the draftsman has simply missed out provisions relating to interests held by a discretionary trust. Can the Treasurer clarify whether the legal advice has correctly interpreted the bill and whether more work needs to be done in that area?

The Hon. K.O. FOLEY: It is a pleasure to hear the member for Davenport use those words and phrases. It is refreshing to see that he is bringing such a common touch to the law. I am advised that it is the view of Revenue SA and Parliamentary Counsel that the proposed provisions impose the surcharge where an interest in a discretionary trust (that either owns or has a partial interest in a gaming machine business) is transferred, provided that ad valorem stamp duty is payable on the transfer of the interest in the discretionary trust.

The definition of 'interest', at section (2) of the Stamp Duties Act, for the purposes of the act means:

> . . . a legal equitable interest and includes a potential, contingent, expectant or inchoate interest.

On this basis, any interest in a discretionary trust transferred that is liable to ad valorem duty would trigger the payment of the surcharge where the trust holds a total or partial interest in a gaming machine business.

The Hon. I.F. EVANS: I am glad the Treasurer raises inchoate interest. Can he please explain to the house what it is?

The Hon. K.O. FOLEY: No!

The Hon. I.F. EVANS: The legal advice continues:

> If proposed subsection 71EA(3) is intended to have effect when an interest is held in a gaming machine business through a discretionary trust it is inappropriate because it leads to potential double counting and multiple tax impositions. This proposed provision is adopted from section 71(8) of the Stamp Duties Act. That provision has always prevented introduction of capital beneficiaries or their omission because it meant that duty would be payable on the entire net value of the trust. For example, if a trust deed were to be amended so that X was added as a beneficiary then duty would be payable on the entire net value of the trust. If X and Y were to be included as beneficiaries duty would be payable on two times the net value of the trust (it should be noted that Revenue SA has historically taken the view that admission of a beneficiary as an income only beneficiary did not invoke this provision and only capital entitlement beneficiaries admissions are subject to duty).
>
> Proposed subsection 71EA(3) would have much the same effect if it were bedded into the proposed legislation by reference to appropriate provisions. There is potential for multiple exposure to the surcharge.

Will the Treasurer explain whether there will be double dipping in this multiple exposure to surcharge?

The Hon. K.O. FOLEY: I can, and of course this may be a philosophical difference between the two parties, but Revenue SA agrees with Mr Schurgott and therefore I can assure members that the government does. The addition of two further beneficiaries to a discretionary trust will result in imposition of a surcharge twice, in addition to two lots of stamp duty. This is considered a correct and appropriate outcome.

Progress reported; committee to sit again.

The Hon. K.O. FOLEY (Deputy Premier): I move:

> That standing orders be so far suspended as to enable the house to sit beyond midnight.

The DEPUTY SPEAKER: I have counted the house and, as an absolute majority of the whole number of members of the house is not present, ring the bells.

An absolute majority of the whole number of members being present:

Motion carried.

STAMP DUTIES (RENTAL BUSINESS AND CONVEYANCE RATES) AMENDMENT BILL

The Legislative Council agreed to the bill without any amendment.

PARLIAMENTARY COMMITTEES (PRESIDING MEMBERS) AMENDMENT BILL

Received from the Legislative Council and read a first time.

STAMP DUTIES (GAMING MACHINE SURCHARGE) AMENDMENT BILL

In committee (resumed on motion).

Clause 4.

The Hon. I.F. EVANS: In a previous answer the Treasurer indicated that duty would be charged on a potential interest. Will the Treasurer explain how he can charge on a potential interest; and does that mean that he is charging the duty on the maximum possible value of the potential interest; and, if that is right, is there a rebate if the actual interest turns out not to be to the value that was estimated at the time of charging the duty?

The Hon. K.O. FOLEY: I am advised that this element has been in operation since 1980. It is possible—and clearly that was the view at the time—for issues of tax avoidance that this measure was introduced, but it has been operational for 22 years, roughly.

The Hon. I.F. EVANS: The legal advice goes on:

Proposed subsection 71EF(2) is a provision which treats value shifts as a transfer.

I am sure the Treasurer is aware of the value shift transfer issue. It continues:

For example, if units in a unit trust are redeemed, then the redemption is treated as a transfer of an interest or a notional interest in the gaming machine business. This provision is fraught with difficulty. The Stamp Duties Act has recently been amended in parts of section 71 to deal with certain value shifting mechanisms.

The Treasurer will probably recall the decision of the High Court in MSP Nominees Pty Ltd v. the Commissioner of Stamps SA 99 ATC 4937. The letter continues:

These rules only deal with unit trust value shifts. There are no other rules in the Stamp Duties Act which deal generally with value shifting and, accordingly, there is no precedent to determine how the proposed amendment for the surcharge might work.

It is quite possible that the surcharge will be payable on a value shift but stamp duty not payable on the same value shift. I acknowledge that proposed section 71EH(1) provides an exemption from surcharge where it 'is effected by a conveyance that is exempt from ad valorem duty'. However, a value shift will often not involve a 'conveyance' and the exemption may not be available.

For example, a corporate value shift may not involve a stampable instrument and may not be subject to stamp duty. The surcharge may apply and there is no basis on which the proposed exemption in subsection 71EH(1) may found its operation.

For completeness I add the observation that Revenue SA imposes stamp duty on the form of the transaction and not its substance. Their interpretation of the exemption provision is likely to be rigorously formal.

It should also be noted that the value shifting provision (proposed subsection 71EF(2)) is capable of subjecting transactions involving discretionary trusts to the surcharge. For example, if a beneficiary is formally excluded from the objects clause of a trust deed, there would be a shift in value from that object to all of the other objects of the trust. It would be impossible to evaluate the increase in value of the remaining objects' interest, but nonetheless technically there will have been an increase.

It is difficult to comment further as I do not understand how it is intended to key in the treatment of discretionary trusts because the proposed provisions are presently entirely inadequate.

Will the Treasurer respond to that allegation and explain to us how it is intended to key in the treatment of discretionary trusts to this provision?

The Hon. K.O. FOLEY: I can provide to the committee advice that the redemption of units in a unit trust scheme is considered to be a conveyance for the purpose of the Stamp Duties Act and liable to ad valorem conveyance duty. Such a transaction will trigger liability for the surcharge and is considered a correct and appropriate outcome. I am also advised that under section 71EH, in respect to exempt transactions, a transaction is exempt from the surcharge if it is affected by a conveyance that is exempt from ad valorem duty under this act. Under this bill we will have the power by regulation to exempt such transactions of a specified class from the surcharge if such a transaction or issue is identified.

The Hon. I.F. EVANS: In relation to the proposed exemption provisions section, 71EH is not clear whether or not a deemed conveyance, for the purpose of section 71, is a conveyance for the purpose of proposed section 71EH. For example, an instrument which affects a redemption, cancellation or extinguishment of an interest in property, subject to a trust, is deemed to be a conveyance for the purposes of the act. It should be made clear that such an instrument is a conveyance for the purposes of section 71EH. Moreover, it should also be made clear that where there is no conveyance or deemed conveyance subject to duty, there is no surcharge because of the operation of the exemption. So, can the Treasurer confirm whether or not a deemed conveyance for the purposes of section 71 is a conveyance for the purposes of proposed section 71EH?

The Hon. K.O. FOLEY: What I can provide to the committee, member for Davenport, is this advice which I have been provided with. Revenue SA and the parliamentary counsel are satisfied that a conveyance, including a deemed conveyance, that is exempt from ad valorem stamp duty will not be subject to the surcharge. Mr Schurgott is of the view that this aspect is not clear enough in the tabled legislation. It is the view of Revenue SA that this can be confirmed in a Revenue SA circular.

The Hon. I.F. EVANS: The proposed section 71EL which requires a return to be lodged with the commissioner by the parties should be reconciled with the existing requirement under section 71E to lodge a statement with the commissioner when an interest in a business is sold without affecting an instrument. The two provisions are likely to require a duplication of effort and may be inconsistent in their requirements. Will the Treasurer undertake to ensure that the requirements under each provision are reconciled and therefore consistent, and save duplication for the industry?

The Hon. K.O. FOLEY: I can advise the committee that the requirement for a separate return to be completed is not considered of sufficient consequence to warrant amendments to the bill being moved.

The Hon. I.F. EVANS: A final question, Treasurer. The legal advice notes again that certain transactions which are effected without instruments are not subject to stamp duty and refers in particular to the exclusions for liquidators, receivers etc., in subsection 71E(2), but the proposed exemption from surcharge in section 71EH requires a conveyance. There is significant room for a surcharge to be payable where no stamp duty is payable. Subsection 71(5) also contains a list of instances where an instrument is not deemed to be a conveyance, where a surcharge will be payable but stamp duty is not. For example, in paragraph 71(5)(f) exemption duty, the vesting of property of a trust in an individual, and deems the instrument affecting the vesting not to be a conveyance. Accordingly, such a vesting would not attract the exemption in proposed section 71EH. Can the Treasurer confirm that that is a correct understanding of that clause?

The Hon. K.O. FOLEY: What I can say is that this is a very complex area of law and it is difficult to draft precisely so that all we want to catch is caught, and all that we do not wish to catch is not caught. It is a complex piece of law with a very simple answer. It is preferable therefore to draft the legislation sufficiently widely to ensure that we catch everything that we need to catch, and then we can of course provide—

Ms Chapman: By regulation again?

The Hon. K.O. FOLEY: Well, we can back off, if need be. If necessary we can by regulatory exemption. The tabled legislation has such a regulatory mechanism. Revenue SA and parliamentary counsel are of the opinion that any transaction that is exempt from ad valorem stamp duty will not be subject to the surcharge.

The Hon. I.F. EVANS: The opposition has no more questions but I do thank the Treasurer and the committee for their indulgence and the way the committee has been conducted to assist the AHA in getting the responses for their legal advice.

The Hon. K.O. FOLEY: As I have said, if the AHA has further issues it wishes to raise with the government, it is free to write to me and seek further clarification.

Ms Chapman: What will that do?

The Hon. K.O. FOLEY: The member for Bragg has popped down. She must have felt that the member for Davenport was getting too much attention tonight. Whenever my friend the member for Davenport is seen to be putting up a sterling performance, the member for Bragg quickly runs down those stairs to make sure that she is given equal billing.

The Hon. M.J. Wright: He's still the favourite, though.

The Hon. K.O. FOLEY: I still think he is the favourite. I have got my money on him. As I said, there are some weeks before this will be debated in the upper house. If there are matters that the AHA wishes to discuss with the government, it is free to make contact.

Clause passed.

Title passed.

Bill reported without amendment.

The Hon. K.O. FOLEY (Treasurer): I move:

That this bill be now read a third time.

I thank all members of the committee and the former government for its work in the last 12 or 18 months, because a lot of these matters were on file when we came to office.

Bill read a third time and passed.

NATIVE VEGETATION (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 17 July. Page 888.)

The Hon. I.F. EVANS (Davenport): I will not delay the house for long in relation to this matter because members would be aware through the *Hansard* record that the previous government, in about October or November, just prior to the 2002 election, introduced a comprehensive package of native vegetation reform. It successfully passed through the lower house with some divisions but it was not addressed to its final conclusion in the other place. So, the house has had extensive debate on a whole range of issues that are re-presented in the bill and through a series of amendments. Essentially, the bill picks up the majority of the previous government's work and then colours it with some amendments of the government's flavour, which is its right as the government.

The opposition has placed on file a series of amendments and, because a number of members wish to speak tonight, I will not speak to all the amendments. To make the committee process simpler, I will indicate what our amendments do. We do not support the Labor suggestion that the penalty be increased from $40 000 to $100 000. We argue that our suggestion of a $50 000 penalty is a far more reasonable measure. That in itself is a 25 per cent increase in the penalty and we have an amendment on file to that effect.

We do not support the shift of appeals to the ERD Court. We believe that the appropriate place for an administrative appeal is the specialist appeals tribunal in the District Court. The other concern about the ERD Court is that third parties may attach to the appeal with the leave of the court, and there are some concerns that that leaves the door open for third parties to give land-holders a more difficult time than they perhaps need to. We suggest that the District Court, because it has the specialist administrative appeals section, is the appropriate place to deal with administrative appeals.

We do not support the government's move to introduce a provision to allow any third party to take action against a land-holder for alleged illegal clearance, if the Native Vegetation Council has not. We have an amendment to delete that clause. We reinstate the innovative environmental credit system into the bill, while retaining the government's suggestion of payment into the fund; and, therefore, we suggest a dual system in relation to that matter. We support the concept of expiation notices, but only if the expiation notice system is amended so that the expiation notices are issued by the Native Vegetation Council and not the officers. This way there is Native Vegetation Council oversight of what some might describe as over-enthusiastic officers in the issuing of expiation notices.

We do not support the appointment of officers in remote areas by facsimile unless that provision is restricted to government and local government officers, or crown and local government officers. We have amendments on file to that effect. We do not support the extension of the power of the officers as proposed by the government's legislation, which in the original bill provided that they could take equipment onto any land and dig up, dismantle or remove anything that the authorised officer 'reasonably suspects may constitute evidence of a breach'. We do not support that provision at all.

We also wish to reinstate the clauses in relation to offences by authorised officers, which I know has been a matter of longstanding interest to the member for Stuart. We support the reintroduction of that provision, and there is an amendment on file to that effect. It is appropriate that I put on record that we do support a number of minor amendments to the previous government's bill, which are now in this bill—some new initiatives, if you like.

We support the amendment that provides that the Native Vegetation Council must not provide responses for applications that are seriously at variance with the principles of the act. We support the amendment that requires the Native Vegetation Council to investigate possible breaches of the act as expeditiously as possible. We support minor amendments to ensure that expiation fees and penalties recovered, and other amounts, are paid into the native vegetation fund. We support moving the rules that set out how the native vegetation fund is to be used for research, preservation, and the like, into the regulations. We support a series of administrative amendments that give instructions to the Registrar-General on the noting of heritage agreements on the titles. These changes were proposed by the Registrar-General, who was not consulted in relation to the previous government's original bill due to an unfortunate oversight.

We agree with the amendment that allows the Native Vegetation Council to vary or revoke a heritage agreement that is placed on a title where the land-holder has requested the heritage agreement on the property to protect vegetation

they have planted, as distinct from existing vegetation. We support the amendment to delete a repeated line about the soil conservation and pastoral boards. We agree with an amendment to place into the bill the current practice of the Native Vegetation Council to allow the assessment report to be publicly available, where members of the public can look at the assessment report and seek to speak to the Native Vegetation Council meeting, but only if the council agrees.

We support the amendment to allow the court to require a respondent found guilty of a breach to pay an amount into the fund, based on the financial gain obtained, or likely to be obtained, by committing the breach, as this will stop companies treating the fine as a fee for clearance. We support the amendment to instruct the court not to take into account financial grounds, unless unduly harsh, when making an assessment as to whether the party responsible should be made to reinstate illegal clearance, that is, they cannot say it costs too much to reinstate illegal clearance unless it is unduly harsh. We support moves to clarify that a person who fails to comply with an order of the court is in contempt of the court. We support the series of amendments to clarify that a landowner's appeal is an administrative appeal and not an appeal on the merits of the case. We accept the amendment to review the appeal process after five years, although we cannot see the need to put it in the act because the government can review it whenever it wants, but we will let the minister have his way in relation to that. We do accept the provisions to allow the register of applications to be put on the web for better public access. We support the allowance of the minister for a standard range of delegations and, as I say, we support the concept of expiation fees only on the basis that they be issued by the Native Vegetation Council.

The Hon. G.M. GUNN (Stuart): At this interesting time of the night to be debating a particularly important measure, I sincerely hope that when we have the detailed discussions in committee it will be at a more reasonable hour—

The Hon. J.D. Hill: I can assure you of that.

The Hon. G.M. GUNN: —when people will perhaps be in better humour. This particular measure is important to the rural community. The first thing that needs to be said is that those farming districts and those individual farmers who—both themselves and their predecessors—have kept areas of native vegetation on their properties are the ones who will be subject to these further controls and these further impediments.

This legislation does not apply to the ones who do not have any native vegetation, who have cleared all the land. Those who for two or three generations have done what a lot of the community would think is the right thing will now in some cases have called into question their ability to effectively, properly and sensibly manage their properties. I do not know whether the minister understands or appreciates—I hope he does—that, if he is not very careful, the day-to-day management practices and needs of the agricultural sector will be made more difficult if this legislation and its regulations are enforced in a harsh, unreasonable or unnecessary manner.

Since the change of government, it has been interesting to observe certain of the inspectorate type people, those who when given a little authority seem to let it go to their heads. On Monday night I had a complaint from a farmer who was not aware of the provisions. He is just a hard-working person who has a small farm. He was contacted by a person from the Department of Environment—I think he said her name was Denise—who demanded to come to see him and tape record the discussion.

One of the hallmarks of a decent society and democracy is how the government and its instrumentalities treat the general public. When anyone is taken to court by the government, they are at a grave disadvantage. The government has unlimited resources; the individual does not, and therefore they are at a disadvantage. I have been through this legislation carefully. I think I know a fair bit about it. It would be fair to say that I have been a critic of aspects of this legislation for a considerable amount of time. I believe I have been so for good reason and in the interests of the people I represent.

We have a number of circumstances where it is necessary for farmers to take practical steps so they can continue in a productive capacity. One of the real problems with this legislation is that, in their day-to-day practices, it is necessary for farmers to burn off grasses and stubble, first so they can farm the paddock but, secondly, to control mice, snails and weeds. That entails the need on occasions to burn native vegetation.

I put to the minister and those who assist and advise him that this is an absolutely essential part of farming practice. This year there were hundreds of thousands of mice across the country. How do you get rid of them? I wish that plague of mice had gone into North Adelaide. It was like the grasshoppers: we were hoping that they would get closer to Adelaide so that they would have had a lot more attention. They hit Clare, but they should have got into the gardens of Adelaide; then it would have been a lot more serious.

But, to get back to the problem with mice, there are hundreds of thousands of mice eating the crops in people's homes. How do you control them? You burn the paddocks and you poison them but, on the edges of the cropping ground where you have areas of native vegetation, if you walk along the grass you see mouse holes. There is only way to get rid of them, and that is to give them a bit of a scorch. They do not take a box of matches too well. So, that is absolutely essential.

The increasing number of snails that are invading farmland is a problem that at this stage can only be controlled by burning off. You have to burn the fence lines, you have to burn the paddocks, and you have to burn the islands of scrub; otherwise, you have breeding grounds for them. As you drive around the country, you see all the white posts with the snails on them—there are millions of the blasted things. I do not know where they came from, we do not want them. They are uninvited, and the only way to get rid of them is to drop a match in them. And, under this legislation, if we are not very careful, people will not be able to do it.

If one looks at the provisions of this bill, one sees that it provides that people are required to answer questions. I thought that we lived in a democracy where you have the right to remain silent. I thought that was one of the hallmarks of our system: that, if people do not wish to be cross-examined, they have a right to give their name and address and to tell the inspector that if he has any questions he can put them in writing and their lawyer will respond. I had a poor gentleman ring me on Monday night, and that is the advice I tendered to him: 'Tell this blasted woman who wants to hassle you to put her questions in writing and let your lawyer answer them. If she objects, give us her full name and we will ultimately have to deal with the matter on the floor of the parliament.'

I have to say to the minister that if these draconian powers that have been placed in this bill are unreasonably enforced, then one unreasonable act always creates another. Let me make it very clear: if my constituents are harassed or are what I believe to be unreasonably treated, those responsible will be named in this house and a motion will be moved, because they have no other alternative action available.

Some of the provisions of this legislation are such that they deny people justice. The minister has a provision here which says that they can get a warrant to go into someone's house. Why is that necessary? I checked it out with parliamentary counsel, and they said that my interpretation was correct. So, I have an amendment which will provide that that should not be the case. Why is it necessary to go into someone's home? I would like an answer to this.

I give the example of an isolated farm at the back of Quorn, where there is a spouse with two little children by themselves. Along come two inspectors—

Ms Chapman: In packs.

The Hon. G.M. GUNN: That was the learned legal counsel's advice: they were not my words, but I accept the advice. Along come the two self-important inspectors holding up their shiny badges, as they do, thinking that they were catching Ronald Biggs or someone else. With these fellows, a little bit of authority goes to their heads and they could demand entry. The lady concerned could say, 'No, I don't know what you're talking about and you can't come in.' Then they could enter the home and tip it upside down.

Some months ago when we had some committee meetings, I asked one of these characters whether under those circumstances he would go into a home, and he was not sure. He could not give me a clear answer. I thought that was appalling. He was not prepared under those circumstances to rule out that they would not enter that woman's home. I say to the minister: let them do it and see what the consequences are.

If you want to police the act there are two ways to do it. If you do it in cooperation, applying commonsense and reason, you will get that in response and you will not have a problem. If you do it because you have some enthusiasts, you should remember that at the end of the day South Australia owes a lot to its rural sector. This economy needs it; if you want people to continue to be productive and play an important role in our society, you have to do it with cooperation. As I said earlier, these provisions are aimed at the people who have done the right thing. I know that the environmental movement and all those others think I have odd views on this matter. It is my role in this parliament to stick up for those people in rural South Australia and to raise these issues. If we do not do it here in this parliament, where else will we question it? If we do not ask the questions and do not raise the issues, this parliament will pass this legislation, and we will then have no further control over it. It could operate to people's detriment or their rights could be trampled and it could have undesirable consequences. Once it goes out of the parliament we will have no more say over it. We should remember that. It makes people feel warm and fuzzy by passing laws, but sometimes they are not aware of the consequences.

There are a number of other issues in the legislation about which I have been involved in discussions. I find it amazing that the minister would not include provisions relating to the conduct of inspectors. If it is good enough for a number of other acts of parliament to include that, why is it not good enough to have it in this legislation? Are these people so perfect that they are beyond question? I doubt it. From my experience and complaints I have had, they are not. Police officers are subject to the Police Complaints Authority. The Police Complaints Authority Does not apply to this act of parliament, so I cannot understand where the problem is. If these people are fine, upstanding citizens, there is no problem at all.

At the end of the day, as I pointed out to the minister in the house earlier, in most cases the average farmer or landholder who has native vegetation has never read this act of parliament or the regulations and is not well informed in them—and how would you expect them to be? Therefore they are at the whim of these people if a complaint is made about them or, if they come there of their own volition, they are at a grave disadvantage. I realise that ignorance is no excuse for not complying with the law, but an education program may be necessary, along with a bit of commonsense and reason in relation to those who are administering the act.

Another area of concern to me is the need to have fuel reduction programs to protect the public against bushfires. One of the difficulties we have with the current arrangement is that it is a cumbersome process to put in adequate and effective fire breaks. I am concerned that, as a result of this cumbersome and unwieldy process, there may be disasters in the future, because people have been prevented from putting in effective fire breaks to protect their property, their neighbours and the general public. I might not know a lot about many things, but one of the things I have had a fair bit of experience in as a farmer is controlled burning off. There are not too many people left in this chamber who have that experience. I can say that, if you want an effective mechanism to ensure that the public is protected in large areas of native vegetation, there are two important ingredients. You need adequate fire breaks and the provision of adequate access so that people can get in to the fire. Given what took place in the Blue Mountains in New South Wales and in America, surely we ought to be taking sensible steps. I understand that the national parks have put up to eight metre fire breaks in an area in recent times, and I could go on and make some other comments, but I will not at this stage. A fair bit of flexibility was given there.

With respect to these other provisions in relation to 'on suspicion', the police do not intervene with people if they suspect that someone will go to the hotel next week and exceed .08. They do not come to them the week before and say, 'We have an education program.' In my view, these sorts of provisions, when someone has not committed an offence, are a bit over the top, because over-enthusiasm by certain people will cause problems. I understand that there have been one or two difficult cases, and one of these people, because of their resources, has set out to clearly thumb their noses at the current act. I can understand the difficulties there, and I do not support those people. But I am concerned that these provisions will be used against people who have little or no ability to defend themselves. The member for Flinders and I are very much aware of the difficulties that Mr Denton had and how he has been treated. That case, in my view, is one which needs highlighting if we cannot obtain some good answers—and it will be highlighted. There are a number of other cases of which we are aware.

In all these matters, if commonsense had applied, the member for Flinders and I would not be as annoyed as we are about the treatment of that individual. It is, in my view, quite wrong for people to invite themselves into people's homes and require them to sign statements without advising them of their rights. From my information, that has taken place in that

case and a couple of others. In a democracy, people do not have to put up with that sort of behaviour. If that sort of behaviour takes place, as I said earlier, other unreasonable acts will follow. If the only action available is to highlight it here and name the inspectors to make an example of them, so be it; that is what will happen. I would sooner not do it but, from past experience in dealing with other areas of bureaucracy, it has been necessary, and it has had a wonderful effect and commonsense then applied. We can put 200 questions on notice in relation to some of these difficult situations, but I would prefer not to do that.

There is an urgent need to address the bushfire problem. There is a need to allow sensible burning off of native vegetation. This matter has to be addressed. There has been a huge build-up of material over recent years because that practice ceased; in the past, farmers used to burn off native vegetation. The Aborigines burnt it off before Europeans came here. There is a build-up, and it has to take place. If burning off of native vegetation were going to kill mallees, there would not be any mallee trees left in South Australia. It does not hurt them: it makes them grow better. One only has to go to a place 18 months after there has been a massive bushfire and see what has happened. Farmers used to burn off to enable regeneration for their stock. One can go to the conservation park where we are looking to do some mining at Ceduna: all over that country the farmers used to burn on a hot day when the wind swung to the south, because they would put their sheep there in the wintertime. It never hurt it; it all regenerated. That is important. There was the need for the ability to control vermin.

Under these current acts of parliament, Dean Rasheed would have been prevented from getting rid of all the rabbits at Arkaba Station. He did an outstanding job. It cost him a huge amount of money, but it was a very good project, and he was supported by government. He should not have to go through this unnecessary bureaucratic system where one has to obtain permission.

At the end of the day, these people have to make a living from what they themselves can do. They are not like those of us who sit in here or those who support us or those who are involved in the bureaucracy, who get paid whether or not they perform. Those people have enough difficulties in dealing with drought, mice and other things. Therefore in passing legislation we have to ensure that it is clear and reasonable, that it does not prevent normal farming operations from taking place and that commonsense prevails. I look forward to the committee stage where I will move a number of amendments standing in my name. I will support the amendments moved by the member for Davenport who has put a great deal of hard work and effort into this proposal over the past 18 months. I think he has been very tolerant. I know that there are people who think I have been a bit difficult and hard to manage—

An honourable member interjecting:

The Hon. G.M. GUNN: I sometimes wonder why, but I have a view—

The ACTING SPEAKER (Mr Snelling): Order! The member's time has expired.

The Hon. G.M. GUNN: Well, that's very unfortunate—

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

The Hon. R.B. SUCH (Fisher): I would like to make a brief contribution and indicate that I support this bill. It has been a long time coming. Members will appreciate that I introduced a bill over 12 months ago which did not get through due to the passage of time—that is putting the kindest interpretation on it—and I acknowledge that the member for Davenport has also sought to improve the legislative framework for the protection of native vegetation. This measure is timely. It should have happened years ago, but it is before us now and we need to deal with it. I believe it is a step forward. It is not perfect, it has some deficiencies, but in general it is an advance.

I highlight some recent correspondence from the Archbishop of Adelaide, the Most Reverend Philip Wilson. I wrote to him recently congratulating the Catholic Church on its statements regarding the environment. I acknowledge that the Anglican Church, the Uniting Church and other churches have also moved towards stating a positive position in regard to protecting the environment. I will not quote in detail from the publication of the Catholic Church *A New Earth—the Environmental Challenge*, which was published this year, but I will quote a couple of extracts from it, as follows:

> This growing awareness is also reflected in the teachings of the Church. Since the late 1980s the Pope has been raising social and environmental issues with increasing frequency and intensity in an important contribution to the development of Catholic Social Teaching in our times. These teachings can help us, as individual Christians, and as part of a Church community, to accept our responsibility to protect people and the planet.
>
> Catholic social teaching reminds us that human beings are called to act as stewards safeguarding the integrity of creation. We need to change our ways of seeing the world, of thinking and behaving, as we accept our responsibility to protect earth's finite natural resources.

In a general audience given by Pope John Paul II on 17 January 2001, he said:

> It is immediately evident that humanity has disappointed divine expectations. . . humiliating. . . the earth, our home. It is necessary, therefore, to stimulate and sustain ecological conversion.

I believe that is significant and indicative of a recognition—in this case by the Catholic Church but, as I said earlier, by other churches—that we need to do more in terms of protecting and safeguarding our natural environment.

Our record in South Australia in regard to native vegetation is appalling. We have cleared more than 60 per cent of the original vegetation and of what little is left much has been degraded, even, sadly, in our national parks. Many of them are infested with weeds and do not in many ways represent anything approaching the vegetation that would have been found there prior to European settlement. So, our record in South Australia is not a good one, but we need now to try to take stock of what little native vegetation we have, much of which we have not even studied. We have not even looked at the medicinal or other possible benefits of some of our native vegetation, and we are basically still in a state of ignorance in regard to the potential of much of that vegetation.

Fortunately, there has been a significant change in attitude. Many of my relatives are on the land, and in the last 10 or 20 years I have been pleased to note a dramatic change in attitude. I find that many of those on the land are the strongest advocates and protectors of native vegetation. However, sadly today I find that clearance is still occurring on the Fleurieu Peninsula—although not at this time because the contractors would be in bed—to provide for additional vineyards. Why in heaven's name we need more vineyards, I do not know. The clearance is taking place following approval by the Native Vegetation Council, and a large number of mature blue gums and other trees are being removed in the area of

Finniss, close to Currency Creek. We still have significant clearance occurring.

I noted in Saturday's *Advertiser* an article referring to a development proposed for Coffin Bay—which is a very apt title—by an Unley road naturopath to create a so-called health village on 10 hectares of high quality native vegetation. I find it amazing that someone who is a naturopath and who supports things natural would want to engage in a development that will destroy some high quality native vegetation. We still have a long way to go. This bill does not address that issue. However, the Planning and Development Act can and I trust will in due course stop people using the loophole of development to clear native vegetation as is proposed at Coffin Bay and as is happening in the urban areas throughout this state.

This bill incorporates many aspects of my bill of last year and also picks up on many of the measures included in the bill moved by the member for Davenport. When the member for Davenport was the minister for environment, I was very pleased with many of his actions and his commitment in the environment in relation to adding to national parks. I believe that he had a genuine commitment to nature conservation. Members of the Liberal Party should think of some of the Liberals of the past such as David Brookman, who was a pioneer in aspects of native vegetation conservation. People such as David Brookman and the member for Davenport should be commended for the efforts they have put in in their time in this place to protect the natural environment.

This bill increases penalties. Importantly, it has a make good provision because, if you take away the economic benefit of clearing land illegally, you take away the motivation and the desire to clear the land in the first place. That is a very important measure. I note that there is a greater role now for the Environment, Resources and Development Court. I appreciate that the member for Davenport has a different view on that and believes that it should be dealt with in a different court. The argument that the government is putting is that it is an environment court and that is the appropriate place to deal with it. Wherever these matters are dealt with, they need to be backed up with teeth. The people passing judgment need to take these matters seriously, because in the past we have seen many magistrates and others not take these matters as seriously as they should.

The bill contains a lot of other progressive measures. As I mentioned, it has greater deterrents for unauthorised clearance; it seeks to encourage revegetation; it seeks to improve enforcement capability; and it gives greater access to information relating to applications to clear. The bill provides limited third party rights, and it gives more power to authorised officers to collect evidence and to stop people acting in breach of the act.

The financial penalties are significantly increased but, as I say, I think the most effective penalty is the 'make good' order, where people are required to carry out restoration work to compensate or try to rectify the damage that may have been caused. I believe that will act as a much more effective deterrent. The wider community appreciates the need to promote conservation of our native vegetation because, at the end of the day, if there is no habitat, there is no fauna, no birdlife and so it goes on.

I acknowledge the comments of the member for Stuart. I have argued for a long time that there needs to be a structured and systematic approach to what I would call 'cool burning' in national parks and similar areas. It has to be done skilfully, carefully and at the appropriate time with the appropriate resourcing. It is not a slash and burn mentality: it is an effective management tool.

Unfortunately, in South Australia we do not have much scientific or accumulated evidence in relation to cool burns. It is the case that in Western Australia and Victoria quite a bit of research has been done, and cool burn techniques have been practised for quite a while. It needs to be remembered, when people talk about the necessity for significant fire breaks, that most of the fires in national parks and such areas come from without rather than from within: more fires go into the parks than ever emerge from them. One needs to see the parks in that proper context, rather than view them as being the source of fire that damages farm and other non-park property.

It will be a challenge for the bill to pass through the upper house in a short period of time, given the constraints on sitting days. However, it is important that this matter be expedited. As I say, when I introduced my bill I was very heartened by the positive approach of the South Australian Farmers Federation, with which I corresponded. The federation acknowledged that the Native Vegetation Act needed to be overhauled; the government has done so. The member for Davenport sought to overhaul the act himself in a slightly different way, but I think we all agree that the act needs to be updated and improved to deal with changed circumstances.

The Native Vegetation Council has a very difficult role. Whatever it has done, it has never been able to please everyone. There has been a bias in the system (I am not saying in the membership) towards clearance rather than against clearance. That is my assessment, and the onus must be very much on those who propose any sort of clearing.

We all acknowledge that there will be times and situations where some clearing is required, but it must be done legally and it must be done properly. It is not practical to have a situation where bushland cannot be removed or no tree can be cut down. That is not sensible or realistic, but a system must be in place that is effective, reasonable, responsible and properly enforced. To that end, you need people who can make sure that what is approved is abided by and, likewise, that which is not approved is not carried out.

There are some loopholes in the current act. We all know that people have abused the provision relating to fence lines. Some people might think they are being smart by trying to circumvent the intention of the act but, at the end of the day, they are really cheating on our future generations and diminishing the extent of our biodiversity which, at the start of my contribution, I said we have not even fully analysed, and much of it has disappeared and disappeared forever.

I have looked quickly at the amendments proposed by the member for Davenport. Some of them, I believe, may be worth a second look but, overall, I believe the bill proposed by the government is sound and sensible. It does not go as far as I would like in certain respects but, I guess, the reality of any proposal is that you will not satisfy every person or every organisation. I commend the bill to the house. I believe that it deserves speedy passage, and I trust that it will also receive the same consideration and strong support in another place.

Mr MEIER secured the adjournment of the debate.

ADJOURNMENT

At 12.58 a.m. the house adjourned until Thursday 29 August at 10.30 a.m.