HOUSE OF ASSEMBLY

Wednesday 19 February 2003

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

BURIAL SITES

A petition signed by 5 540 residents of South Australia, requesting the house to support the introduction of legislation preventing the burial sites of South Australian people from being dug up and reused when leases are not renewed and providing for the protection of such sites in perpetuity, was presented by the Hon. R.B. Such.

Petition received.

HOSPITALS, NOARLUNGA

A petition signed by 206 residents of South Australia, requesting the house to urge the government to provide intensive care facilities at Noarlunga Hospital, was presented by Mr Brokenshire.

Petition received.

PAPERS TABLED

The following papers were laid on the table:

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

Public Corporations Act—Ring Corporation Dissolution

By the Minister for Tourism (Hon. J.D. Lomax-Smith)—

SABOR Ltd Financial Report 2001-02.

ELECTRICITY, COMPANY LIQUIDATION

The Hon. K.O. FOLEY (Deputy Premier): I seek leave to make a ministerial statement.

Leave granted.

The Hon. K.O. FOLEY: At 5 p.m. on 10 December 2002 I was informed that one of the companies involved in the former Liberal government's privatisation of South Australia's power, Flinders Osborne Trading Pty Ltd, would be going into voluntary administration unless the government bailed it out by 10 a.m. the next day. If it went into liquidation, it would trigger a liability estimated to be $140 million to the people of South Australia.

The problem is a direct result of the Liberals' privatisation of South Australia's electricity. In 1996 the Liberal government created an arrangement under which ETSA supplied gas to the Osborne Power Station at Port Adelaide (a joint venture between Origin Cogeneration and the ATCO Group) and purchased back the electricity generated there. The Liberal government also gave a guarantee in relation to the price of the gas and the electricity. The deal operated at a loss.

When NRG purchased the Port Augusta Power Station, it was required by the then Liberal government to take responsibility for any liabilities under the Osborne arrangement. NRG created a company called Flinders Osborne Trading Pty Ltd to manage those arrangements. As a condition of the sale, the former Liberal government guaranteed the obligations of Flinders Osborne Trading Pty Ltd to the owners and operators of the Osborne Power Station, supported by a counter guarantee from the United States parent, NRG Energy Incorporated. By taking on this liability, NRG discounted the price it paid for the Port Augusta power assets by the value of the expected losses at the time of privatisation, at that time approximately $120 million.

NRG Energy has now run into severe financial difficulties and faces the prospect of chapter 11 bankruptcy in the United States in the near future. Understandably, this prospect has alarmed the syndicate of banks that funded the Port Augusta deal. The American parent initially refused to meet its financial obligations to the loss-making Flinders Osborne Trading.

If Flinders Osborne Trading were to go into voluntary administration, which was threatened in December, under the guarantee of the former Liberal government, the government becomes liable to pay. I have been advised that the present value of this liability could be at least $140 million.

In 2001 the Auditor-General raised concerns about the possibility of something like this happening. He was worried that a company that leased electricity assets may cease operation—

The Hon. W.A. Matthew: He also told us—

The SPEAKER: Order! Leave has been granted. The member for Bright does understand that, I am certain.

The Hon. K.O. FOLEY: In 2001 the Auditor-General raised concerns about the possibility of something like this happening. He was worried that a company that leased electricity assets may cease operation in the South Australian market within a period of five to 10 years. The former Treasurer—the architect—Mr Rob Lucas, in a media release dated 26 June 2001, I assume in response to that, alleged the following:

> . . . in the real world, companies don't invest hundreds of millions of dollars on a new business to then close it down in a few years and leave the state.

Mr Lucas also stated that NRG's conduct at that time confirmed the accuracy of the former government's view and cast significant doubt on the accuracy of the concerns raised by the Auditor-General.

The former Treasurer was wrong, wrong, wrong! This liability became very much a real world prospect for the people of South Australia in December last year. In the government's mid-year budget review released on Monday, the Department of Treasury and Finance brought the $140 million into the state's accounts as a contingent liability. Having now outlined to the house the mess left by the former Liberal government's bungling of its electricity privatisation—

An honourable member interjecting:

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

The Hon. K.O. FOLEY: —I would now like to detail the most recent developments to the house. In December I said—

An honourable member interjecting:

The Hon. K.O. FOLEY: Contingent liability, Rob.

An honourable member interjecting:

The Hon. K.O. FOLEY: You'd know nothing about accounts, Rob. In December I said that I would do whatever it took to secure the state's interests and pursue NRG to the full extent of Australian and international law to ensure that it honoured its obligations to the people of South Australia. Following the first series of negotiations with the government prior to Christmas, NRG Inc. was persuaded to put $35 million into the local Flinders operations. That provided sufficient funding to enable operations to continue until March 2003 without intervention by the banks. In Brisbane in early January, I met with the financial adviser of NRG (Joff Mitchell of Kroll Zolfo Cooper), who had flown out from the United States for discussions with the banks with an

interest in NRG Flinders and the government. Following that meeting, further negotiations have occurred with the banks and with the United States representatives, with them returning to Australia in recent weeks. I have made clear throughout these negotiations that a situation in which South Australia faces ongoing losses as a result of NRG's financial troubles would be completely unacceptable to the government of South Australia.

As a result of tough and protracted negotiations, I am now told that advisers to Flinders and NRG Australia have been able to get the support of corporate creditors of NRG Inc. in the United States to permit funds to come to Australia to be put into Flinders Osborne Trading. I can announce today that the sum proposed at this stage is an additional $29.9 million, bringing the total sum to $64.9 million released since the threat of voluntary administration. NRG intends that this arrangement will secure the refurbishment of the Port Augusta power station and prevent a liability to the state. However, these arrangements are subject to the agreement and approval of a syndicate of banks that have an interest in NRG Flinders Australia, and discussions between NRG Flinders and the banks are ongoing. I look forward to both sides reaching a productive conclusion to their negotiations.

We have also been advised that NRG and its major creditors will use their best endeavours to ensure that the government's interest as a guarantor of NRG Energy is preserved and will not directly be prejudiced by chapter 11 bankruptcy proceedings in the United States. These arrangements represent a huge step forward for the people of South Australia in the crisis with NRG which this state faced in December.

The Liberals' privatisation of electricity has left a horrible legacy for South Australia, but we as a government are doing everything we can to safeguard South Australia's position. This is not the end of the problem but a significant step forward. I am continuing to work productively with Mr Bruce Carter of Ferrier Hodgson, Mr Joff Mitchell of Kroll Zolfo Cooper and the syndicate of banks that hold an interest in NRG Flinders to ensure that the resolution of this problem is secured for the state.

The SPEAKER: Order! Before proceeding, can I advise, in particular the Deputy Premier and Treasurer and other ministers, that leave to make a ministerial statement is not licence to slag—in the common vernacular—other members of parliament.

Honourable members: Hear, hear!

The SPEAKER: Order! The practice will not be tolerated by the chair in future.

STRONTIUM 90

The Hon. L. STEVENS (Minister for Health): I seek leave to make a ministerial statement.

Leave granted.

The Hon. L. STEVENS: I wish to inform the parliament that a special hotline has been established for people wanting more information about commonwealth testing for strontium 90 in human bone tissue between 1957 and 1978. This follows the commonwealth's release today of information on the testing for strontium 90 that occurred throughout Australia more than 20 years ago. For South Australia, some 3 000 samples are registered on the database. The commonwealth government ordered the testing after the explosion of nuclear devices into the atmosphere at Maralinga in the state's Far North.

The testing was part of a global nuclear monitoring program for measuring strontium 90, which is a radioisotope associated with nuclear testing. This was done to find out how much contamination had occurred in the environment. The commonwealth investigated several sources, including precipitation, soil and the groups of food responsible for the main intake of strontium 90 such as milk, grain products, vegetable and fruits, meat and human bone tissue. The national monitoring program was based on a continuous measurement of the level of strontium 90 in these materials.

The program was undertaken by the Atomic Weapons Tests Safety Committee from 1957 to 1973 and the Australian Ionising Radiation Advisory Committee from 1973 to 1978. Information on the testing has been provided by the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) and it is available on www.arpansa.gov.au. The program involved taking small samples of bone from some people who died and underwent an autopsy during this time.

The hotline service—1300 887 728—will be staffed from today by teams to manage calls, investigate, follow up and provide feedback to people. Counselling services will be available if required. The hotline staff under, the guidance of Dr Brian Tuckfield, are committed to providing the most accurate information that is available. Apart from the hotline number 1300 887 728, information leaflets will be available at Medicare offices throughout the state.

I want to reassure the public that this practice will never be allowed to happen again. Measures have now been put in place—a national code of ethical autopsy practice—which ensures that families are as involved as they wish to be in the decision-making process about autopsies.

RADIOACTIVE WASTE

The Hon. J.D. HILL (Minister for Environment and Conservation): I seek leave to make a ministerial statement.

Leave granted.

The Hon. J.D. HILL: Today I am announcing that the government is taking decisive action to ensure our radioactive waste dump bill—the Nuclear Waste Storage Facility (Prohibition) (Referendum) Amendment Bill 2002—is passed through the parliament before the close of business tomorrow. The government introduced this bill into the parliament in the very first sitting week of this term. It was passed in this house in July and has been before the upper house since then. By 24 March this year, the federal Environment Minister David Kemp is due to give his final determination on one of three sites near Woomera for the proposed national low level radioactive waste dump.

This government wants the proposed dump to be an illegal facility in state law by the time that determination is made. We also want to ensure that the carting of this waste across our borders, along our roads and through our communities is also illegal under state law. However, the bill has been held up over the issue of the referendum. The bill proposes that a referendum would be triggered if the federal government attempted to override state law and site a medium or high level radioactive waste dump in South Australia.

Sir, this government is committed to ensuring that the referendum trigger is passed by this parliament. But, in order to ensure that the national low level waste dump is made an illegal facility under state law by next month, the government will today split the bill in two. We will separate the referendum clauses and reintroduce them as a separate bill—allowing the provisions to prohibit the establishment of a

national low level storage facility and the transport of low level radioactive waste into South Australia to be passed. We cannot tolerate any more delays to this bill.

Anyone who attempts to stall it before the end of tomorrow will be viewed by the government to be supporting the creation of a low level radioactive waste dump in this state—and will be viewed as a supporter of the transportation of this waste into South Australia. This government is totally committed to ensuring the safety of current and future generations of South Australians.

The SPEAKER: Order! The member for Unley has a point of order.

Mr BRINDAL: Mr Speaker, I ask you to rule. The minister appears to be pre-empting debate on business matters before the house. He is talking about bills that will be introduced and what the government intends to do. Is it orderly to do that in the form of a ministerial statement or should it be part of the Orders of the Day?

Members interjecting:

The SPEAKER: Order! I do not uphold the point of order. The measure has passed this chamber. It is not for the chair, or any other honourable member, to speculate as to what might happen to it in the process to which it might be subjected in the course of debate and determination in the other place other than as the minister observes. To that extent it is orderly; beyond that it is not. The minister.

The Hon. J.D. HILL: Thank you, Mr Speaker. When we came to government we found that the only information on South Australia's waste existed as a result of a survey sent out to those holding waste. No site assessments were made to verify any information received back, and regular monitoring of all sites was not conducted. After nine years the previous government had no real idea about the security and safety of the waste stored in our state. Along with this failure to ensure the immediate safety of South Australians, the Leader of the Opposition made it clear in a radio interview last week that the Liberals in South Australia were in favour of a national low level radioactive waste dump being sited here.

So, while the Liberals are in favour of it, this Labor government is totally opposed to it. Federal science minister Peter McGauran has already signed off on a $300 000 public relations campaign which is about to begin and which is designed to convince South Australians that we need this dump. Mr Speaker, this campaign will fail. No-one in South Australia will be convinced that we should be pleased to accept 171 truckloads of radioactive waste into this state next year. No-one in this state wants the 130 truckloads of waste that will come directly from the old Lucas Heights reactor in Sydney.

No-one in this state will welcome what that waste contains, including short-lived intermediate level waste that includes strontium 90, caesium 137 and tritium, which have a hazardous life of hundreds of years. We know—because we have read it in the environmental impact statement—that the federal government is also now considering three options to send more of the hazardous waste from the old Lucas Heights reactor into the planned national radioactive waste dump near Woomera. Option one is to transport about—

The Hon. I.F. Evans interjecting:

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

The Hon. J.D. HILL: —250 truckloads of low and short-lived intermediate level waste into South Australia. Options two and three involve sending between 50 and 200 truckloads of low level and short-lived intermediate level waste from Lucas Heights to Woomera. So, the federal government is actively considering ways to dump all the old waste from the old reactor into our outback as well. In the meantime, this government is taking full responsibility for the waste already stored in our state.

The Hon. Dean Brown interjecting:

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

The Hon. J.D. HILL: Thank you, sir. The EPA is in the process of conducting an inventory of all waste stored here, and that has never been done before. We want to see how it is being stored and whether that storage is safe. That report will be ready by the middle of this year. This government, like every other state government, has a responsibility to take care of its own radioactive waste. We do not believe there is any need to set up a national low level radioactive waste dump and have always believed that once it is established the federal government will find every reason to site its medium level radioactive waste dump alongside the low level dump.

This government believes that the low level dump is a stalking horse for the higher level dump and we intend to fight this every step of the way. We will not give up. I urge all members in the upper house to consider this matter very seriously and accept that they have a responsibility to protect future generations of South Australians.

LEGISLATIVE REVIEW COMMITTEE

Mr HANNA (Mitchell): I bring up the 19th report of the committee.

Report received and read.

Mr HANNA: I bring up the 20th report of the committee.

Report received.

QUESTION TIME

MURRAY RIVER

The Hon. R.G. KERIN (Leader of the Opposition): Will the Premier advise the house whether the Minister for the River Murray will go to the next Murray-Darling Basin Ministerial Council with cabinet authority to sign off on South Australia's financial commitment to a buy-back scheme? At present there is a proposal between the state governments and the federal government through the Murray-Darling Ministerial Council to buy back up to 1 500 gigalitres to increase environmental flows in the lower reaches of the River Murray. More than 8 000 hectares of South Australia's prime vineyards and River Murray communities are under threat unless this plan to buy back water in the Murray-Darling Basin is actioned immediately. It is vital for the South Australian section of the Murray that there are no further delays in making final decisions.

The SPEAKER: Order! Again I have to tell the Leader of the Opposition that statements are not necessarily explanations that enable the substance of the question to be better understood. They may facilitate debate. They are disorderly if they do.

The Hon. J.D. HILL (Minister for the River Murray): It is an important question that the Leader of the Opposition has raised and I was glad to see him at the Press Club lunch today listening to our Premier make a speech on behalf of all South Australians trying to get a bipartisan approach on this matter, and I think that the Leader of the Opposition supports

that approach. The issue of how to get more water back into the River Murray is an important one. There are a variety of ways of achieving that and, at the lunch today, Tim Flannery highlighted those three ways. We can either take it without compensation from existing water users, we can put money into efficiencies to try to get some water back into the system, or we can buy it on the market.

Buying it on the market is the most expensive way of trying to get the water that is required, and I believe it is probably the least beneficial way from a government point of view. To purchase the amount of water that is required for the River Murray to come into South Australia would be between $2 billion and $3 billion, and I do not believe that any of the governments in Australia at the moment, particularly the South Australian government, is capable of purchasing that amount of water, despite the intent of the press release the Leader of the Opposition put out today.

What is required is money that should be put on the table by the national government to help facilitate the process. We need a mix of all the options that I have identified and that were identified today at the luncheon; we need a mix of those options, a cocktail, if you like, in order to get the volume of water that is required for environmental flows for the river. There will be discussions held at the ministerial council meeting in May this year, and further conversations will be held in October. As to what stage the recommendations will be I am not yet advised, but if it requires a decision by the cabinet I am sure that the cabinet will take it on its merit and give me the appropriate authority.

CLIPSAL 500

Mr O'BRIEN (Napier): My question is directed to the Minister for Industry and Investment. Do you have further information regarding the 2003 Clipsal 500?

The Hon. K.O. FOLEY (Deputy Premier): I thank the honourable member for his question, and can I say at the outset that this is a race that has bipartisan support, an initiative of the former government, and I congratulate it for it.

Members interjecting:

The Hon. K.O. FOLEY: I am happy to acknowledge the good work of the former government in establishing the Clipsal car race. It would be churlish of me to do otherwise.

The Hon. P.F. Conlon interjecting:

The Hon. K.O. FOLEY: No they weren't, not all car races.

The SPEAKER: Order! The Deputy Premier will not respond to interjections.

The Hon. K.O. FOLEY: I apologise, sir. The 2003 Clipsal 500 has, as we have all heard, expanded to a four-day event this year. It was decided by the government to support the recommendation of the Clipsal V8 Board to have a crack at a four-day event. With the expansion from three days to four, the event now includes 10 motor sport categories and three concerts.

The 2003 Adelaide Clipsal 500 is now the largest motor sport festival held in Australia. The event will run from 20 March to 23 March. I can say at this stage that ticket sales for the 2003 Clipsal 500 are currently in excess of $2 million, which is 10 per cent up on this time last year. Corporate hospitality sales are nearing 8 000 clients per day, which again is up 9 per cent on this time last year.

The major national promotion and marketing campaign began two weeks ago and will proceed right up until the event in March. The SA Motor Sport Board commissioned a report by Barry Burgan of Burgan Economic Research Consultants which found that for the 2002 event over $16.2 million of economic benefits were generated, 8 500 tourists visited, and it generated over 47 000 bed nights. The 2002 event also generated in excess of $35 million in media benefit.

The 2003 event is on target to exceed these benefits. As members may be aware, AVESCO, the sport's governing body, has recently announced the expansion of the V8 series into China in 2004. As part of this deal, all rounds of the V8 super car series will be televised free-to-air into China—quite extraordinary. I am told that this will increase the viewing audience to potentially—and I use the word 'potentially' because it can only ever be potential—200 million viewers, thereby further promoting South Australia throughout the world.

The Hon. M.D. Rann interjecting:

The Hon. K.O. FOLEY: I did, but I said 'potentially'. The Clipsal 500 is a great event for South Australia, one for which this government will do all it can in delivering an outstanding race each year that we are in government. As I said, I acknowledge the work of the former government, and I assure the shadow minister that he will get his invitation.

This event is vital and very important from the point of view of showcasing South Australia to the many companies and corporations which may wish to invest in South Australia or, indeed, which already are. A number of national and international business leaders are coming to Adelaide for the week of the carnival. This will be a great opportunity for the government to meet with senior worldwide and Australian business leaders to further promote our great economic opportunities here in South Australia.

MURRAY RIVER

The Hon. R.G. KERIN (Leader of the Opposition): My question is directed to the Minister for the River Murray. Given the government's commitment to the River Murray, will he explain to the house why funding for ground level rehabilitation projects is being cut? The Lower Murray swamps have been a continual problem in the South Australian section of the Murray, and the way in which we address this issue is being closely watched by the eastern states.

The previous government committed $30 million to clean up and reduce water use by 40 per cent through the Lower Murray Irrigation Scheme (a combined state, federal and irrigator funded scheme). The government attracted much media attention when it re-announced this Liberal initiative, but it has not explained why funding has now been cut by $10 million, and the new ask by dairy farmer irrigators has raised funding to an unexpected, unrealistic and, in many cases, unaffordable level.

The Hon. J.D. HILL (Minister for the River Murray): I thank the member for his interest in this issue on this important day for the River Murray in South Australia. I assure the member that there has been no cut in funds for rehabilitation of the Murray swamps. In fact, my department has continued the negotiations with the irrigators in that area which commenced under his government. area. The exact volume of funding that is required has been negotiated over time and, as the member would realise, this is subject to agreement with the commonwealth government.

We have been negotiating over time with the commonwealth government for funds from the National Action Plan on Water Quality and Salinity. Part of that has involved a

requirement that the local irrigators themselves put in funds. We have had outside consultants involved—at arm's length from government so that we are not seen to be prejudicing the outcomes—to tell us where the public and private benefits are—

The Hon. R.G. Kerin interjecting:

The Hon. J.D. HILL: No, not at all—and we have been attempting to work through this issue with the irrigators in the lower swamps area. I have had a number of meetings with them, and as a result of those meetings I have been able to find extra resources which we can put in to assist the restructuring of the industry, because, as the Leader of the Opposition would know, we want to improve the environment of the district.

It is important nationally that we do that because, as he rightly said, the eastern states continually point at us and say, 'How can you tell us what to do when you still have a disaster in your own state?' In addition, there will be huge economic benefits. Restructuring of the industry, which is anticipated to reduce the amount of land under irrigation by some 20 per cent and use less water, will increase quite dramatically the production of milk and the return to those irrigators.

So there are substantial benefits for those who are left in the industry in that area, and there are, of course, substantial benefits for the environment. It is anticipated that as a result of this scheme the amount of effluent going into the river from that area will be reduced by about 80 per cent and water efficiency will rise to about 65 per cent. In these circumstances of flood irrigation, which is really the only way of irrigating in the lower swamps area, 65 per cent is about the optimum level of water efficiency that you can get. So, there are very good outcomes both environmentally and economically.

The scheme is progressing. It is true to say that irrigators would like to see us put more money into this, but as I say this is a commonwealth-state arrangement, and those monies are there for the public good. The private beneficiaries, the irrigators, would need to put in their own contributions as well.

NATIONAL PARKS

Ms CICCARELLO (Norwood): My question is directed to the Minister for Environment and Conservation. What action is being taken to better protect the Lincoln and Coffin Bay National Parks?

The Hon. J.D. HILL (Minister for Environment and Conservation): I thank the member for Norwood for her question. It may be a long way from Norwood, but I know that she has a keen interest in national parks, wherever they may occur in South Australia.

An honourable member: She rides there on her bike, does she?

The Hon. J.D. HILL: I am not sure whether or not she goes there on her bike. Following public consultation and consideration of advice from the Wilderness Advisory Committee and the South Australian National Parks and Wildlife Council, the government has decided to increase protection of wilderness areas within these valuable parks. The Memory Cove wilderness area in Lincoln National Park has been maintained in a virtually undisturbed state since vehicle access was controlled in 1992. In consideration of the significant wilderness values of this area, the government believes it is appropriate to have it proclaimed as the Memory Cove Wilderness Protection Area under the Wilderness Protection Act 1992. This will be the first wilderness protection area proclaimed on the mainland of South Australia, and that is quite an achievement.

In Coffin Bay National Park, the government believes that the wilderness values of the Point Whidbey area should also be protected but, in this situation, the area should be designated as a wilderness zone under the National Parks and Wildlife Act 1972. This decision has been made following extensive consultation. Numerous concerns were raised by the local community about this proposal and the government believes that designating the area as a wilderness zone under the National Parks Act will provide appropriate and adequate protection of the wilderness values.

Fundamental to the management of this park is the eradication of exotic animals to help restore wildlife habitat. The presence of horses within the park is inconsistent with managing the park for conservation and is compromising the park's environmental values. Therefore, the government intends to relocate the remaining herd of horses—20 mares (plus suckling foals) and one stallion—known as the Coffin Bay ponies, from the park to a suitable area of nearby SA Water land. The Department for Environment and Heritage has been conducting a habitat restoration program within Coffin Bay National Park with community volunteers under the Ark on Eyre program to restore the sheoak woodland. Currently, the horses roam this area where artificial watering points have been established to allow stock to graze. These watering points also support significant numbers of kangaroos, which adds to the total grazing pressure on the vegetation and inhibits any revegetation. Reducing the grazing pressure through the removal of horses, removal of watering points and lowering kangaroo numbers is fundamental to the habitat restoration program.

The Hon. DEAN BROWN: Mr Speaker, I rise on a point of order. Clearly, this is an issue which could be taken up in a ministerial statement at the end of question time. It is inappropriate that this sort of material is brought in by the minister, taking up time during question time.

The SPEAKER: I am inclined to agree with the deputy leader. It is hardly spontaneous information arising from a question of which the minister had no prior knowledge. I invite the minister to wind up.

The Hon. J.D. HILL: I will wind up quickly. I think it is important that this house is advised of this issue because it is one of controversy in the member for Flinders' electorate. I have talked to the Pony Preservation Society and also to a local environmental group about this issue. This is a difficult decision to make, but I have made the decision based on the best interests of the conservation park.

Can I sum up the problem for the benefit of members? As a result of the ponies in the park, artificial water has to be provided, which attracts kangaroos and creates a grazing problem. So, we would have to destroy the kangaroos in order that the ponies can stay there, which is contrary to all the principles of national park management. This solution protects the national park and gives the ponies a place to live.

MURRAY RIVER

Mr BRINDAL (Unley): My question is directed to the Minister for the River Murray. Will the minister advise the house how bad conditions must get before he will action and exercise the powers afforded to him under the Water Resources Act which allow him already to restrict water allocations from the Murray? The lower reaches of the

Murray and Lake Alexandrina are in a critical state, with high and rising salt levels and very low water levels, a fact that the Premier and the minister drew to the attention of the public of South Australia. Under paragraphs (a) and (b) of section 37(1) of the Water Resources Act, the minister is able to reduce water allocations to protect water quality and to protect any further degradation of the environment. The minister has yet to exercise any authority that is provided him under the act.

The SPEAKER: Order! Notwithstanding the observations the member may make, they are in this context disorderly.

The Hon. J.D. HILL (Minister for the River Murray): That is an important question, and I am glad to have the opportunity to answer it in this place. In recent months, a number of people have put to me, 'Why doesn't South Australia have water restrictions in place?' I think the member for Unley made some media on this over the summer break. It does seem extraordinary that South Australia—the driest state—has no water restrictions in place while other states such as New South Wales, and I think Victoria, have had water restrictions in place for some time. There are a number of answers to this, and some go over a longer term and some are in the short term. I will try briefly to go through them. The reality is that South Australia has had in place a water restriction since the 1970s, when we put a cap on the extraction of water from the River Murray. That is when we did the most work to reduce the amount of water being used in South Australia. Sadly, it was not until the mid to late 1980s that the other states—New South Wales and Victoria—put in place similar caps. So, we already have in place a water restriction, if you would like to look at it from that point of view.

As a result of that restriction and agreement between the Murray-Darling Basin partners, South Australia has a guaranteed allocation of water to it, even in the most difficult conditions. That is around 18 050 gigalitres of water a year. Of course, we very much rely on that in Adelaide because during dry years such as this 90 per cent of our water will come from the River Murray. The best scientific advice given to me from my department or officers is that that level of water which has been guaranteed has very high security, and 99 years out of 100 that water can be delivered to us in South Australia. There will be some occasions when it cannot be delivered to us, and next year may be one of those years.

The member asked when and under what conditions I will impose water restrictions. It is highly likely that I will have to exercise those powers, and my colleague the minister responsible for SA Water will have to exercise powers to reduce the amount of water being used in South Australia—not just in Adelaide but across the whole basin. We will have to do that because there will be insufficient water in the system for the commission to give us the 18 050 gigalitres that we normally get guaranteed. If we do not get our 18 050 gigalitres minimum, there will be restrictions in place. It will apply not just to the metropolitan and country towns but also to the irrigators right along the basin. We may have to do that. I do not want to scare people about it, but there may be serious restrictions next year if we do not get significant rainfalls across the basin over the next 12 months or so.

As to question about whether we should have restrictions in place now, I would like to see more wise use of water in South Australia now. I do not believe it is appropriate at this time to impose those restrictions, because it would be like the boy crying wolf. It is not needed this year, but it may well be needed next year. I will be making a statement in the near future about voluntary water restrictions, and I will give the house detail of that at that time.

NURSES

Ms RANKINE (Wright): Will the Minister for Health say what are the details of the government's initiatives to encourage and assist nurses who have left the profession to return to nursing through refresher and re-entry courses?

The Hon. L. STEVENS (Minister for Health): I am pleased to provide some continuing information on the government's strategies in relation to this very important matter. As all members would know by now, South Australia is desperately in need of nurses, and we are trying to entice people who have trained as nurses back to the profession by revamping our refresher and re-entry programs. The state government has allocated $1 million for free refresher and re-entry programs for nurses. As I said, the hospital based courses are free and, for the first time, we are now also offering scholarships of up to $5 000 each to help people cover their expenses while they do the courses.

At the end of the day, if we can get more nurses back into the system, this money will be well spent. This year three courses will be run. They will be run at the Royal Adelaide Hospital and Flinders Medical Centre; and two will also be offered at the Julia Farr Centre. We expect that up to 130 students will be involved and there will certainly be a job for each of them in a public hospital when they finish their courses. Expanded refresher and re-entry courses are part of the government's $2.7 million recruitment and retention strategy for this year, and they were a key recommendation of the state nursing plan developed with the ANF to address the nursing shortage in South Australia.

When this initiative was announced, the shadow minister criticised it. He criticised the grant of $5 000 to people, but what I would like to say is that this program—$1 million—far outweighs anything that the former minister did. The money that he offered for a small program was a fraction of the $1 million put aside in the budget this year by the current government.

ELECTRICITY SUPPLY

The Hon. W.A. MATTHEW (Bright): Will the Deputy Premier explain to the house why, when acting as energy minister, he found it necessary to cause public concern through his statements in relation to problems with the Moomba gas plant; and indicate why he publicly claimed that electricity rationing to households was likely when this conflicted with advice he was given by departmental employees? On 25 January this year, the Treasurer held a press conference to inform the public of a problem with the Moomba gas plant. The Treasurer described the situation as grave and urged South Australians to conserve electricity and said that blackouts and electricity rationing could not be ruled out.

I am advised that there was no problem with the gas pipeline but there was a problem with the gas plant resulting from damage that occurred to the flare header during routine maintenance. I am further advised that SANTOS regularly undertakes maintenance during long weekends, in the event that, should something go wrong with their procedures, they have a greater opportunity to rectify a problem without gas supplies being restricted to household consumers and without

significant effect on the state's electricity supplies. I am advised that during the most recent shutdown damage occurred to the flare header in the form of a small 15 centimetre long by 2 centimetre gash. Over the past few years, far more serious incidents have occurred where rationing to households has not been necessary.

The SPEAKER: Order! This is not explanation of a legitimate nature for the question asked by the member but rather debate. The chair—not the member for Hammond but the chair—has informed the house that the standing orders in that respect will be upheld. It is not appropriate for us to continue to flaunt our own standing orders. Either we amend the standing orders or I will be more stringent in my application of them.

The Hon. K.O. FOLEY (Deputy Premier): I am happy to answer that. I will now recollect the facts as I recall them as occurring, and I will be happy to provide any further detail or clarification if anything is not quite correct. However, this is my recollection of what occurred. I say to the shadow minister for energy from the outset, 'You have to do a bit better than that'. I will say what happened. I was contacted at 8.30 a.m. on the Saturday of the long weekend as the acting energy minister—

The Hon. P.F. Conlon interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: This is very important and I ask the honourable member to listen to how this unfolded. At 8.30 in the morning, the government was contacted by Santos directly through a government adviser who contacted me. The government officially was notified a couple of hours later. Immediately, the technical regulator, the head of the Electricity Industry Planning Council, Mr Ron Morgan, convened an emergency council meeting with staff and appropriate officers. What occurred was that Santos had planned—I hope that the honourable member is listening to this—a programmed maintenance shutdown over the long weekend without industry working.

What occurred was that, during the planned maintenance shutdown of part of the plant, a particle that was in the pipe blew a hole in the pipe—whether it was 150 centimetres or half a metre, I cannot recall that information.

Mr Brokenshire: It wasn't half a metre.

The Hon. K.O. FOLEY: I am saying that I cannot recall. I said it was 150, 50, I do not know what size it was. What I do know is this: that immediately that hole was blown in the pipe, Santos had to shut down the plant. What it did then was—

The Hon. W.A. Matthew interjecting:

The Hon. K.O. FOLEY: Excuse me, does the honourable member want to hear the answer or not? Santos, from memory, then began the process of packing the pipe with as much gas as it could. We then had to begin rationing the major users across metropolitan Adelaide. Unfortunately, or fortunately, it depends how one looks at this, Adelaide Brighton Cement had a fire that morning and had voluntarily shut down its plant. That was one of the state's largest users of gas. As the weekend progressed, Santos kept us updated. It advised me on the Saturday that the plant would be down for 30 hours. That is total plant closure—not parts of it but total plant closure for 30 hours.

A staff member was contacted who then advised me on Saturday night at 9 o'clock—I was at a function—that it was now about 40 to 60 hours. That is my recollection. From memory (and I think that it was a Saturday night), late in the evening I had to sign the first official gas restrictions. The next morning, from memory, I had to sign some more—certainly sometime during that day. I had to go back into the office to meet with, from memory, Mr Cliff Fong, Mr Ron Morgan and others to be kept up-to-date. Mr Jim Hallion, the head of the department, came in and we began the process of programmed rationing for major users.

My recollection was that it would have been the Monday, and the time kept getting pushed out by Santos as it was dealing with a major problem. The problem was not so much the hole in the pipe, because that could be fixed. It took, as I said, quite some hours. The real risk was in bringing the plant back up to speed. I am advised that (and I would have thought a former energy minister would have known this), when you have a complete plant closure, the time it takes to bring that plant back up to full production takes some time, but there is an enormous amount of risk in bringing a plant up to full production.

We were told on the Monday—and I cannot remember the exact time lines and the date—that unless the plant was fully operational, I think by late on the Tuesday, from memory, Wednesday was the critical day; because we had 40° heat in Adelaide on the Wednesday, we had high temperatures interstate, from memory, and bushfires were also occurring on the eastern seaboard. I was advised by officers, including Mr Jim Hallion, the head of the department, from memory, and Mr Ron Morgan that we had to begin planning for electricity restrictions. We had to—

The Hon. P.F. Conlon interjecting:

The SPEAKER: The Minister for Government Enterprises will come to order.

The Hon. K.O. FOLEY: There were four levels of electricity restrictions. I will not go into them because, at this stage, they are the types of restrictions that governments hope never to implement. We had to begin planning on the Monday for electricity restrictions. We had to prepare advert campaigns. We had to prepare radio and newspaper adverts. We had to consider whether or not television adverts would have been required. For the first time in this state's history, certainly for many decades, there were to be electricity restrictions. It had not been done for so long, if at all. We had to take significant preparations for that eventuality.

I was contacted late on the Monday, from memory now, to be told that the plant was being brought on quicker than expected, that the repairs had been brought forward, and that it was likely that gas would flow on the Tuesday earlier than had first been envisaged. It is absolute nonsense for the silly member for Bright to walk in here with some silly reference to what someone told him. The government acted appropriately over three or four days for what could have been a significant crisis in this state. Had it been one more day before the gas was back on, we would have had level 1, possibly level 2, electricity restrictions on the Wednesday. That is what we could have faced—

Members interjecting:

The SPEAKER: Order, the member for Mawson, for the second time!

The Hon. K.O. FOLEY: —because the plant was closed down. It was not producing gas.

Members interjecting:

The SPEAKER: Order! The member for Mawson has gone through the thin ice.

The Hon. K.O. FOLEY: When we came into office (unlike members opposite, who were not able to do this until the dying days of their administration), the Minister for Energy and the Premier ensured that the new gas pipeline

from Victoria was significantly enlarged, comparable to that coming from Moomba, so that in future years we would not face such a crisis. That is what Labor has done in government. We have secured supply, we have secured the state's safety and the state's interests, and it is absolutely appalling that the shadow minister for energy should waltz into this place and make an allegation that this government acted anything other than appropriately. At every single step of the way, as the acting minister I acted on the advice of senior government officials.

The SPEAKER: The honourable member for Fisher.

Members interjecting:

The SPEAKER: Order, the Minister for Government Enterprises, for the second and final time! The member for Fisher.

WATER TREATMENT PLANTS

The Hon. R.B. SUCH (Fisher): My question is directed to the Minister Assisting in Government Enterprises. What steps has the government taken to ensure the security of South Australia's water treatment plants?

The Hon. J.W. WEATHERILL (Minister Assisting in Government Enterprises): I thank the honourable member for his question, and I note that he has serious concerns about matters concerning the Happy Valley facilities. He is a regular correspondent with the government about those matters—

An honourable member interjecting:

The Hon. J.W. WEATHERILL: —an extremely copious correspondent with the government—and we attempt to address his concerns as fully and appropriately as we can. Earlier this year a media report featured a security lapse which was said to have occurred at the Happy Valley Water Treatment Plant, which is operated by United Water. The main gate was left open, enabling some reporters to enter the facility. An investigation into the matter analysed that the error occurred because the gates are programmed to open on a usual working day and the difficulty in this case was that it was a public holiday, so the gates automatically opened. However, no employees were present, and they usually provide the necessary surveillance. That security lapse has now been dealt with and the appropriate public holidays have been programmed into the gates.

The broader point is that, in the current international situation, there is a heightened sense of concern about our security. One needs to take a balanced approach to this. One does not want to overestimate the risk of terrorist activity in relation to a water treatment plant or a reservoir, but the government has taken this matter seriously and we have had meetings with SA Water at which a program of long-term planning about the security of water treatment plants has been discussed. SA Water has undertaken security audits of key installations, conducted risk assessments of infrastructure groups and established an upgraded project. We realise that this also will involve resources.

SA Water, through its involvement in state disaster and emergency services management activities, has developed strong relationships with SA Police, and at a national level SA Water has maintained an involvement in the issue through the emergency management sector critical infrastructure working group. Further, SA Water is actively participating in the State Critical Infrastructure Review Project. It is important to realise that, while not wanting to over-estimate the risk, the state government is carefully monitoring these matters and that appropriate steps are being taken.

ELECTRICITY METERS

The Hon. W.A. MATTHEW (Bright): Why did the Minister for Energy publicly claim that he had no prior knowledge of increased metering charges for those with multiple electricity meters to a property when he was advised of the new charges, and why did the minister fail to intervene at the time? On 10 January this year the minister publicly claimed that he had no knowledge of new charges being implemented by AGL from 1 January 2003 for properties with multiple electricity meters. However, three months earlier, on 8 October 2002, the member for Mawson wrote to the minister advising him of a constituent's concern about the proposed new metering charges and the minister responded that he had referred the matter to the Essential Services Commission for an inquiry and said, 'Should this inquiry find the prices imposed are not justifiable, the commission has the power to fix prices.'

The Hon. P.F. CONLON (Minister for Energy): Despite the many shortcomings of the member for Bright, I occasionally come to like him. I had been so hoping that he would ask this question. First, it does not aid his case to verbal members of the government in this chamber: it is not orderly. What was said at the time and has been repeated ever since was that we were not aware of the extent of the problem. What occurred was that we were contacted by people with up to 25 meters.

Let me explain to the parliament what happened. Once being made aware of the extent of this problem, we dragged in all the private sector parties, sat down and worked out a better deal for people. About half a day after we announced we were doing that, the member for Bright, the shadow spokesperson on energy, said, 'This was obvious. You should have seen it coming.' Unfortunately for him, it was the first time that he had said a thing on the subject. Were it obvious, it was not obvious to him.

The very simple reason why we do not know how many meters people have is that the opposition, when in government, sold the electricity assets: they are no longer owned by the government. We do not have those departments and we do not have that information because the opposition sold those assets. What this shameless group opposite should remember is that if they had not sold our assets and Labor had come to government there would not be a 25 per cent price increase and we would not have these problems.

Let me tell members opposite something else. If they had stayed in government and had not been able to sell the electricity assets, there still would have been a 25 per cent price increase. I have a copy of the cabinet submission that was withdrawn when the opposition privatised electricity. So, regardless of what was going to happen with this mob, they were going to deliver a 25 per cent price increase. It is time that members opposite admitted to the people of South Australia that they got it wrong—that they butchered the state's future in terms of energy—and it is time that they apologised.

ELECTRICITY, SNI INTERCONNECTOR

Mr HANNA (Mitchell): Will the Minister for Energy indicate how much South Australian consumers will indirectly pay for the SNI infrastructure if it goes ahead? Further,

how much extra megawatt capacity will SNI bring into South Australia if one assumes that MurrayLink operates at its full capacity of 220 megawatts?

An honourable member interjecting:

The Hon. P.F. CONLON (Minister for Energy): I heard someone say that this is a good question, but it is a shame that part of it is hypothetical. Given the genuineness with which it was asked, I will attempt to answer it in any event. I will have to check the completely detailed figures, but in rough terms the total value of the SNI interconnector is about $110 million, about $60 million of which is attributable to South Australia. In comparison, I am advised that the capital value of the MurrayLink application is about $180 million, which is made up of $210 million minus $30 million for operating costs. As I told the house yesterday, MurrayLink involves much more expensive technology. The basis for charges for regulated assets (which is what SNI was approved as and what MurrayLink is seeking to become) involves calculations on their capital base. My advice is that MurrayLink would cost about $25 million on their capital base. Obviously, SNI would be cheaper, but I will have to get completely accurate figures. Those figures are available because SNI did meet a regulated application status. The difficulty, of course, is that MurrayLink sent out as an entrepreneurial interconnector—that is a business decision that was open to them—whereas SNI chose to go through the much more timely process of applying for regulated status.

I and some of my colleagues have expressed reservations about how you make entrepreneurial interconnectors work in a national electricity market. I think MurrayLink is experiencing some of the difficulties that we suggested might occur, and what we have now is MurrayLink being very close to a stranded asset, which I assume is why it is seeking regulated status after deciding to build an entrepreneurial link. I would welcome working out a way to work that asset into the asset base, but I stress: not at the sort of capital value that we are talking about of several hundred million dollars. That is $25 million a year on electricity charges. I understand that there have been some discussions between TransGrid and MurrayLink about including it, but again, if it were included as part of the regulated transmission system, obviously it would significantly blow out that $110 million figure to which I referred. Given the dreadful situation that we have inherited in prices, we are very careful not to impose further burdens on electricity payers, certainly not unjustifiable ones.

The hypothetical question is difficult to answer because, if we were to accept that MurrayLink was working at full capacity, the electricity that could be dispatched down SNI would be determined very much by what was being dispatched down the Heywood interconnector at the time. There is only a certain amount of electricity that you would be sending into South Australia, and that would influence the figures, but if Heywood and MurrayLink were fully dispatched you would not be dispatching any down SNI. That is a very unlikely event. What we are seeing is MurrayLink very much struggling with its entrepreneurial investment. That is why it is now, after the event, seeking regulated status.

I will make a couple of other points. I do not wish to take too much time on this, but I stress that it is my very strong view and the strong view of most commentators—including the most recent Parer review and most of the reviews of transmission—that strong regulated interconnection is a necessary part of the national electricity market. The transmission systems to the national electricity market are regulated. An interconnector is merely a piece of a transmission system that goes across a human made construct, an abstract notion such as a state border or an economic border. That is why I strongly believe that one of our failings in the national electricity market is the failing of a truly rational national transmission system. That has been identified by the national ministers and in the Warwick Parer report—in fact, it has been identified by everyone. What we have to work towards is finding a solution, and that will take a lot of time.

I point out to the member for Flinders, who is a very big fan of windfarms, that the capacity for us to grow a windfarm industry very much relies on strong interconnection. The truth is that we are a low carbon emitting jurisdiction because of the nature of our base fuel, which is mostly natural gas. The value of renewables is much greater in coal burning states. We need strong levels of interconnection into the future. That is why we have a national electricity market. That is why it was a good idea. It was Kennett who invented the marketing system and who, frankly, stuffed it up.

Anyone who says that a rational national system of transmission is wrong is living in the dark ages. The benefits of SNI cannot simply be measured by the amount of electricity flowing out. I think we should have enough faith in our future to measure the benefits of a transmission system in green energy flowing out over the borders. I point out that Babcock and Brown, who were recently establishing a significant windfarm near the Minister for Local Government's electorate, have already contracted to sell that energy interstate. I think that reinforces my point. Of course, the philosophical arguments between regulated and non-regulated interconnectors remain. I think the position that MurrayLink is in lends great strength to the argument for regulated interconnection.

ELECTRICITY PRICES

The Hon. W.A. MATTHEW (Bright): My question is also directed to the Minister for Energy. What action, if any, has the minister taken since he was briefed in March 2002 on concerns about electricity price spiking by generators, and why, after almost 12 months of a Labor government, has it been necessary for the Treasurer (acting as energy minister) to call an inquiry into price spiking?

Members interjecting:

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

The Hon. W.A. MATTHEW: In November 2001, the former Liberal government revealed details of electricity price spiking by generators and took these concerns to the national ministers conference in December 2001 with a proposition that all ministers agree to introduce compounding fines of $1 million in quantum as a deterrent. The Labor ministers in other states instead agreed to collect data on electricity price spiking for the 2001-02 summer, with the resolution to be discussed at the May 2002 ministerial conference. The now energy minister attended that May 2002 conference with South Australian electricity price spiking data. Now, almost a year later, the government has called on the Essential Services Commission to investigate electricity price spiking.

The Hon. P.F. CONLON (Minister for Energy): It is so deeply frustrating to deal with a shadow minister for energy who spends little time addressing himself to the facts of his portfolio. Let me tell the house what was done. The shadow minister went once because he was politically

embarrassed by the findings of the Economic and Finance Committee, of which Kevin Foley and I were formerly members. He was embarrassed by our findings into electricity and gaming and the very hard work done.

The Hon. W.A. Matthew interjecting:

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

The Hon. P.F. CONLON: He failed to get a single thing out of the national electricity ministers. Let me tell you what I did. I was very forceful. In fact, I advised the national electricity ministers who met in Melbourne in a way that this fellow never did. I was not worried about the fact that they were all Labor ministers. I told them that if they were not going to address it seriously I might as well go shopping because it would be a waste of time, and, for the first time, we got a resolution out of the national electricity market ministers to tackle gaming. I then asked for the predetermination conference from the ACCC when they refused to accept NECA's findings.

I tackled the generators. We had a row. It was written about in the interstate newspapers, but of course that would be too much research for the member for Bright to undertake. We had a major row, and I said repeatedly and I told the ACCC at the national energy ministers conference that if they would not act on this we would consider the second-best solution—very much second-best—of proposing our own legislation. We have done more in one year than this mob did in a decade. They were embarrassed into treating the issue seriously by the work of Labor members and the Independent Rory McEwen on the Economic and Finance Committee. They paid lip service to it.

Members interjecting:

The SPEAKER: Order!

The Hon. P.F. CONLON: And, of course, the member for Taylor was also a member of that committee. Nothing was achieved, not even a resolution from the ministers, but we got a resolution from the ministers. We have reinstated the ministers in driving policy; we have got transmission planning; and we have got more movement in the national electricity market ministers meeting in the one year that I have been doing it. I have worked very hard at it, and I do not mind saying that. We have got more in a year than this mob got in a decade, and I repeat that it is about time they apologised for their performance.

The Hon. K.O. Foley: Say 'Sorry'!

The SPEAKER: Order! The Deputy Premier will come to order! There is some other screeching voice on the left that will come to order. I call the member for Bragg.

KOURAKIS QC, Mr

Ms CHAPMAN (Bragg): I direct my question to the Premier, although I am quite happy for the Attorney-General to answer. I say that because the Attorney-General declined to answer this question on Monday. Has the Premier yet been able to determine the value of the legal services provided to him by Mr Kourakis QC in addition to the $9 000 disclosed in the Attorney-General's Declaration of Interest 2001 and, if so, how much?

The SPEAKER: Order! The question is out of order. If the honourable member consults Erskine May at, I think, page 303 she will understand my reasoning.

DEPUTY UNDER TREASURER

Mr BRINDAL (Unley): My question is directed to the Treasurer. Prior to the recent announcement by the Under Treasurer, Mr Jim Wright, that Mr Paul Grimes had been appointed as Deputy Under Treasurer, did Mr Wright and the Treasurer have a confidential discussion about Mr Grimes' close association in recent years with any particular political party?

The Hon. K.O. FOLEY (Treasurer): Come in spinner! The government has been very fortunate to secure two new deputy under treasurers. We now have in South Australia a gentleman by the name of Brett Rowse, former Deputy Under Treasurer of Victoria. Many members would remember John Hill, who served both governments loyally, well and effectively. We advertised one position and had an outstanding response. Mr Brett Rowse from Victoria and Mr Paul Grimes from Canberra applied. Brett Rowse is a former South Australian and was the former deputy under treasurer of Victoria and is outstanding, and Paul Grimes was so good that we offered both of them a job. One thing I have discovered since coming into office is that we need to have better financial management skills in this state, and that does not include just government departments. Most importantly, it includes the Department of Treasury and Finance. It has also given us an opportunity for Mr Gino DeGennaro, an outstanding officer who has served both governments well, to provide very good support, as is needed at the moment, in the Department of Education and Children's Services.

Mr Speaker, I was waiting for this, because the allegation may be that at one stage Mr Paul Grimes may have worked for Gareth Evans when he was in opposition. I do not know what Gareth Evans thinks about Paul Grimes, but I know what Peter Costello thinks, because he wrote him a letter of congratulations on his appointment. Mr Grimes loyally served Peter Costello, and my memory is that he helped prepare his last two or three budgets. All I know is that Mr Jim Wright, the Under Treasurer, has told me that Paul received a letter from Peter Costello congratulating him. I will check, but I was also told that he received a letter from John Howard's office. I will check that out and let you know if that is correct.

EDEN VALLEY FIRE

Mr VENNING (Schubert): Will the Premier advise the house why the former federal Labor treasurer and the current chairperson of the CFS review team was not charged for lighting the Eden Valley fire on 9 November last year, and why was a direction given to hush it up? On 9 November—

Members interjecting:

The SPEAKER: Order! This is a most serious matter and I wish to understand the nature of the question. It does not imply but it, in fact, in nature, inquires by allegation about a hush-up, and I will not tolerate anybody in this chamber distracting my attention from the explanation, to which I will pay very careful attention indeed.

Mr VENNING: Thank you, sir. On 9 November last year the former federal Labor treasurer, the Hon. John Dawkins, who is also the current chairperson of the CFS review team, started a fire that required no fewer than four fire units to extinguish through the careless use of an angle grinder in hot, dry conditions and in very hilly, inaccessible country.

An honourable member: Grubby, Ivan, grubby!

The SPEAKER: Order!

Mr VENNING: Members of the four brigades involved in extinguishing this fire were told to hush it up, and have related these facts to me.

The Hon. P.F. CONLON (Minister for Emergency Services): Before answering the question, I move that question time be extended by five minutes.

Motion carried.

The Hon. P.F. CONLON: I think that this is the most disgraceful question I have been asked in this place. I can tell the house my knowledge of events. I cannot recall the exact date, but I was contacted by Mr Dawkins, who told me that he had inadvertently caused a fire on his property, or that a fire had occurred on his property. He offered to resign on the spot. I suggested to him that he should not resign and that the police and the CFS would do their job investigating it. I had nothing more to do with it and, if the inference is that I did, I invite the member outside to repeat it and I will dispose of a large part of his worldly assets.

Members interjecting:

The Hon. P.F. CONLON: Well, I can tell you that it is a most outrageous allegation. I then had a report from the head of the CFS—I cannot remember whether it was Vince Monterola or Euan Ferguson—who said that the matter had been fully looked into and there was no problem and no cause for charges or any further consternation. If the member is suggesting that I intervened so that Mr Dawkins would not be charged, I invite him to repeat it outside. If he was implying that the heads of the CFS have intervened so that Mr Dawkins would not be charged, he owes them an apology—and he owes them an apology on the spot. He should not ask questions such as this without a factual basis. It is fair game for the member for Schubert to accuse me; he can go outside and do that and we will have our day in court. But I tell the member this: by innuendo and hearsay, to drag the reputations of people in the CFS or the police force through the muck to get a grubby question up in this place is a disgrace, and I hope that he is spoken to by the Leader of the Opposition about this.

AQUATIC FUNDING

The Hon. D.C. KOTZ (Newland): My question is directed to the Minister for Recreation, Sport and Racing. Can the minister explain why yesterday he could not confirm and record in the house whether a $210 000 payment to the Adelaide City Council for aquatic subsidies had been paid, when I am advised that immediately after question time the minister told the media that this money had been paid? Why did the minister not come back to the house and provide this new information? I am advised that council officers received notice this morning, 19 February, that an electronic transfer of $210 000 would be made into the council's account tonight.

The Hon. M.J. WRIGHT (Minister for Recreation, Sport and Racing): The reason is very simple. The member for Newland knew the reason when she asked her questions yesterday—not one question but three questions. Self-righteous as she may try to be, she fools nobody on this side nor her own side. I was told, after leaving this chamber yesterday, that she had been provided with an email by my staff about this very matter about which she still deliberately chose to ask questions yesterday in regard to an electronic transfer that was in the process of taking place. This has been explained to the media. The member for Newland has egg on her face. She is an utter fool, and she embarrasses not only herself but the opposition as well.

The Hon. D.C. KOTZ: I rise on a point of order, Mr Speaker.

The SPEAKER: Order! The member for Newland will resume her seat. The minister may not use the word 'fool' by way of description of any other member in this place. It is unparliamentary, and I invite him to withdraw and apologise. He may wish to describe the unfortunate disposition, as he sees it, of another member in some way that is not disparaging of that member's standing or character, but 'fool' is definitely unparliamentary.

The Hon. M.J. WRIGHT: I am happy to withdraw and apologise, sir.

The SPEAKER: Thank you.

The Hon. M.J. WRIGHT: Could I also contrast, if I may, as I did yesterday, our situation—

The Hon. D.C. KOTZ: I rise on a point of order, Mr Speaker. The minister is debating the question. It was specific, and it is not being answered. We have now moved into debate of that question which is against standing orders.

The SPEAKER: I am listening carefully.

The Hon. M.J. WRIGHT: I also contrast the situation of this government and the former government as I did yesterday. We came into government with no position having been reached in regard to some financial arrangement with the Adelaide City Council and also with the user groups. This government negotiated with the Adelaide City Council, the user groups and the other organisation to which the honourable member also referred yesterday, namely, SwimSA. I met with all of them, and a financial arrangement has been put in place to give some certainty. The opposition and the member for Newland should be highlighting that very point. I can only say what I said yesterday and I repeat it today: the member for Newland came in here yesterday asking those questions, knowing full well what the answer would be, because she had been provided that information from my office.

The Hon. D.C. Kotz: But you paid $210 000. You lie, minister. You absolutely lie.

The SPEAKER: Order!

The Hon. K.O. FOLEY: I rise on a point of order, Mr Speaker. The member for Newland has accused the minister of lying. She either substantiates that by motion of the house or she withdraws and apologises.

The SPEAKER: Order! The former is not an option; the latter is a direction. If the member for Newland called the minister a liar or otherwise accused him of lying, the member will withdraw and apologise.

Members interjecting:

The SPEAKER: Order!

The Hon. D.C. KOTZ: I do withdraw the unparliamentary comment—

The SPEAKER: And apologise.

The Hon. D.C. KOTZ: —and I apologise, Mr Speaker.

SCHOOLS, STURT STREET PRIMARY

The Hon. P.L. WHITE (Minister for Education and Children's Services): I seek leave to make a ministerial statement.

Leave granted.

The Hon. P.L. WHITE: As members know, consultation has been occurring in recent months with various groups that have an interest in the reopening of the Sturt Street Primary School. As a result of that consultation, there have been numerous suggestions about services that could be incorporated into the school to support local families, those services including cultural enrichment and language programs, child care and out of school hours care services, facilities for child health and family support services, and community library and information services. The government is putting these suggestions to members of the local community to get their feedback on just how the site can support their needs.

A consultation paper has been distributed to residents and businesses in the Adelaide area, along with schools, the Adelaide City Council and various interest groups. The government is asking people to help shape the future of the former school, which was closed by the former government in 1996. The school will be revived to again have its core focus on primary education. However, there are a number of possible complementary uses for the school. People are invited to provide feedback in either written form or through one of two public meetings being held next Wednesday 26 February. Their input will be collated and used in the finalisation of plans for the school's reopening in 2004.

Reopening Sturt Street Primary School creates a rare opportunity to take advantage of a unique central location with a distinct cultural heritage to offer some exciting innovation in education. If gives us the chance to support families, encourage cultural diversity and forge new partnerships as it responds to the needs of the community. The government is already acting to redress the physical deterioration that has occurred at the site over the years since it was closed in 1996, and works will continue as consultation progresses. I would encourage anyone with an interest—particularly local families—to get involved in this process and help shape this valuable city resource.

DEPUTY UNDER TREASURER

The Hon. K.O. FOLEY (Treasurer): I seek leave to make a personal explanation.

Leave granted.

The Hon. K.O. FOLEY: On checking, I can confirm to the house that Mr Paul Grimes, the new Deputy Under Treasurer, who had worked on the former Costello budget team, has indeed received a personal note from the federal Treasurer (Mr Peter Costello) thanking him for his work on the federal budget and wishing him well in South Australia. I am advised that he did not receive a note from the Prime Minister's office but certainly received a 'thank you' and congratulatory note from the federal Treasurer, who clearly held Mr Grimes in high regard.

GRIEVANCE DEBATE

COMMUNITY GRAFFITI REMOVAL GROUP

Mrs HALL (Morialta): Today I wish to pay tribute to the work and the untiring efforts of 33 volunteers who comprise the Community Graffiti Removal Group in the Campbelltown/Norwood/Payneham/St Peters council area. The group was formed about eight years ago following concern about growing graffiti vandalism in the area. Among its many objectives, the group vowed to actively remove graffiti from walls, fences, pavements and structures, on both public and private property, and ambitiously supported this work with 100 per cent volunteer administration. I am pleased to say that all this and more has well and truly been achieved by this group.

At its formation, the group comprised four Neighbourhood Watch volunteers, council representatives and a police department representative who committed to procure a trailer—obviously in a legal way. Armed with this trailer, a few cans of paint, brushes, rollers and tins—one of mineral turps and the other of metho—the group set about achieving its task. A petrol driven 240 volt generator soon followed, together with a hobby paint spray unit and also cold water pressure spraying and scrubbing brushes and steel wool. There was much hard work and plenty of scrubbing—so much so that, as I understand it, in the first four years there were six shoulder reconstructions for the volunteers. The group now boasts two of the best equipped graffiti removal trailers in the country and, importantly, the most environmentally friendly solvents available on the market.

Volunteers come from Neighbourhood Watch groups, service clubs and retired clubs and find their task rewarding. However, equally importantly, the local community is the real beneficiary of this magnificent group's untiring efforts. Today, the group is one of our local community's success stories. Two teams of graffiti removalists go out every weekday responding to calls from the public. The territory they cover comprises an area with almost 90 000 residents, and to date it has removed in excess of 112 000 tags or murals from more than 33 000 sites—a record unmatched anywhere in Australia, I understand. The group justifiably prides itself on being a good community citizen, and it is a familiar sight to see at least one of its trailers on display at most of the promotional days conducted by the councils.

All the volunteers are generous with the advice, support and expertise they offer to community members. Assistance has been given to several other councils to establish similar graffiti removal programs, and the group has made it known that they are prepared to train volunteers from other council areas. To date, at least seven other councils have taken advantage of this offer, but the group's notoriety is not just limited to our state, and they have had requests for assistance and advice from Queensland, Auburn and El Paso in the United States.

Who has been one of the driving forces behind this highly successful cross-council group? As a local member of parliament, I am always delighted when the work of one of my constituents is rewarded, and today I wish to say thank you to Mr Ken Peart. I have met Ken on a number of occasions, and being the generous, sincere, warm person he is, I am sure that he would not wish to be singled out for the group's success. However, I know that all his colleagues were delighted and proud when the Campbelltown council recently named Ken Peart Citizen of the Year. Today I wish to record my personal congratulations and thank Ken for the job that he is doing and the leadership he continues to demonstrate to such a fine bunch of volunteers.

Ken has gone on record stating that the City of Campbelltown is the cleanest, graffiti free city not only in Adelaide but in any capital city in Australia. Judging by this group's success, I do not doubt this claim and, this being the case, Ken Peart and his magnificent dedicated group of volunteers must feel justifiably proud of their achievement.

ONESTEEL

Ms BREUER (Giles): Yesterday I was very pleased, in fact I was delighted, with the announcement regarding OneSteel in Whyalla. Yesterday, OneSteel announced its half yearly results for the six months to December 2002 and was able to report a profit of $54.9 million, which was a staggering 178 per cent improvement on the previous six months. This was exciting news for Whyalla. While the company does not expect the next half of the year to be as strong as this, it was a wonderful result for a company which has only just celebrated its second birthday on 3 November. Certainly my heartiest congratulations go out to all involved, including Jim White, General Manager of OneSteel, Mr Leo Selleck, Executive General Manager of OneSteel and also Mr Bob Every, Managing Director and the CEO of OneSteel and every single worker at OneSteel in Whyalla involved in this wonderful result.

The Whyalla Steelworks is known as the engine room of OneSteel's business, and it produces approximately 1.2 million tonnes of raw steel every year. About 65 per cent of that is transferred to OneSteel's market mills in billet form for further value added processing. However, even more exciting yesterday than the news about the profits for OneSteel was OneSteel's commitment to Whyalla's future. The announcement of the date to commence the blast furnace reline is a wonderful confidence booster for the city of Whyalla, and only a local could really understand and know how important is this announcement to us.

OneSteel is showing absolute proof of its confidence in our future. We have seen previous announcements that the reline of the blast furnace in Whyalla was planned, but this is now set in concrete for us. I must say again how wonderful it is for us. I am proud that I was born and grew up in a steel town. The company becomes so much a part of your life when you grow up in a steel town such as Whyalla or Port Kembla. It has a unique bond to its community and to the people. Everyone is connected in some way to the company, either through themselves, their father, mother or someone who works for the company.

BHP was our company. The manager was like God. The company ruled our lives and our community with a firm, almost paternal, influence which made our community special. It was not just a company: it was a way of life. When BHP decided to spin off OneSteel, a real grieving process occurred in our community. It was almost like being disinherited or losing a parent. Our community in Whyalla felt somewhat betrayed; they felt at sea; they felt rudderless. We were given great assurances. We were told of great hopes for the future and we were hopeful, but we were scared. We watched, we waited and we hoped.

Today I am so proud to see what OneSteel has achieved. I was proud that I was able to be part of that process. We know now that the company will survive and that our proud history of skilled workers in Whyalla will continue. And best of all, OneSteel is not the big multinational billion dollar impersonal company BHP Billiton has become: it is still an Aussie local company with some compassion, with a heart, and a company from which people still receive some personal treatment.

We will not go back to those old days when it was a family type environment and where Mr K.M. Bennett, the old manager, took a personal interest in his workers and very often intervened in their lives, but it is much closer than other places experience. I say 'Good on you, OneSteel'. Certainly my sincerest congratulations and my best wishes go to everyone involved, and I also thank them for making Whyalla's future secure.

Being part of the Whyalla community, I was pleased on Saturday night to attend one of our local football clubs. This also indicated to me the great community spirit that exists in Whyalla. It was the opening of extensions at the Roopena Football Club. A few years ago, Roopena had the guts to put in pokie machines. This is a good news story about pokie machines, because they have managed to pump the money that they have made from the pokie machines into our community. They have done amazing things with children's sport and for other facilities in Whyalla. The new extensions are an absolute credit to them and to their club, and to the fact that they took this on against all odds and originally acquired the pokie machines.

It is a pity that a lot more of our pokie money in this state was not put into communities. I give my greatest congratulations to Roopena. It has done a wonderful job for our community, and I can see much more money going into children's sport in the future.

MURRAY RIVER

Mr BRINDAL (Unley): Today the Premier addressed the National Press Club on the plight of the Murray River, and he is to be applauded for this initiative. I feel sure that, in his usual bipartisan way, he, for his part, will acknowledge that some time ago I wrote on behalf of the opposition calling on him to display the very type of leadership he is displaying today. Both he and the Minister for the River Murray have often acknowledged, as I do on behalf of this opposition, that when it comes to matters of water, and particularly the Murray, this parliament speaks with one voice, that is, a South Australian voice, and hopefully an Australian voice.

However, while we share the same aims and goals, it would be wrong if the opposition did not carefully monitor government rhetoric against government performance. As the government at the time, the Liberal Party went to the last election with an ongoing plan for action with the river. We would rightfully have been held to account by the people of South Australia and expected to start to implement that plan immediately following the election. However, there was a change of government and the opposition considered that it would have been unreasonable to expect a new government that had been nearly a decade out of office to hit the ground running, even though everyone who knows anything about the river will be fully aware that the environmental interests of the river in fact demonstrated it.

However, I believe that one year on it is time to start to call to account this government not for its rhetoric on the river but for its actions on the river. On 23 March 2000, as the then opposition leader, the Premier asked a question in this house and issued a press release headed 'Labor calls for positive action to clean up SA stretches of the Murray'. He said:

> South Australia must lead by example and end old polluting practices . . .

He labelled South Australia as a key Murray River polluter. He subsequently did this, sir, and referred to 20 pumps in your area as being the reasons for this massive pollution to the river. Subsequently, the then government targeted $40 million towards the rehabilitation of the area and gained an environmental water allocation from the Murray-Darling Commission. When we left office, negotiations with irrigators

were close to completion and enormous goodwill had existed. But one year on, sir, the opposition learns that members of the Lower Murray irrigation community in your area are despondent and despairing as to the breakdown in the developments that we thought were all but signed off. They are claiming that the government is now reneging on what they saw as a deal with the previous government and expecting them to contribute more than they reasonably believe they can afford to contribute.

This means that there is a danger of the negotiations on the swamps breaking down. This is not a matter just for this government: it is a matter for ongoing governments; it is a matter for whichever party forms the government of South Australia, and it is therefore most disappointing when an opposition that has been in government has to sit and see the ball being fumbled by the current government. Years of work have been put into this last piece of major rehabilitation on the Murray River in South Australia, and it simply is too important an issue for the government to let slip, to let the lower swamp irrigators be placed in a position where they do not feel they can any more contribute to the rehabilitation of the area.

But it goes further. The minister today said that he had not this year imposed restrictions. My question to the house today clearly illustrated that the minister could have imposed restrictions, and the minister is quite correct in saying that we imposed restrictions in the mid 1970s. We did. But those restrictions were in terms of the amount of water that South Australia needs. This year we are on entitlement flows and we are withdrawing, through our irrigators and our urban communities, the water which we need and which is virtually all the water coming down the river.

So, while we made adequate provisions for ourselves and our human use, as the minister knows, we made no provision for the river. And if we are going to set an example in this state for the eastern states, if we are going to show national leadership, it is time that we acknowledged that even the targets that we set for ourselves were too high; that the amount of water we take will not sustain the Murray River.

MEALS ON WHEELS

Mrs GERAGHTY (Torrens): Today I would like to take the time to acknowledge an organisation which operates within my electorate and in South Australia and which provides community service in the purest sense of that term. Recently, I had the privilege of delivering the 200 000th meal made by the Northfield branch of Meals on Wheels. The sheer volume that this represents, as well as the degree of commitment and the amount of hours of volunteer time, is an overwhelming indication of exactly how much work this organisation does. When this is considered in relation to the whole of South Australia and, indeed, the whole of the country, the contribution made by concerned and caring community members is nothing short of incredible.

The total number of meals delivered approximates 35 million, and I think that is extraordinary. The recipient of the meal that I delivered was a gentleman and one of my constituents, Mr Alwyn Munchenberg of Klemzig. I consider Mr Munchenberg to be one of Torrens' living treasures: he is 99 years of age, a Second World War veteran and has lived the majority of his life in the north-eastern suburbs and a significant proportion of that time within the Torrens electorate. Mr Munchenberg, who turns 100 this March, is the oldest recipient to whom Meals on Wheels delivers.

What is significant about the service provided by Meals on Wheels is the freedom that it gives people to remain in their own home for a much longer period, something that certainly would be otherwise impossible for many. When making this delivery, I again had the opportunity to look at the Northfield kitchen. I was extremely impressed, not only by the manner in which the kitchen is maintained but also by the Meals on Wheels volunteers' attention to detail and, certainly, their painstaking effort in maintaining a great standard. Not only were the deliveries recorded in meticulous detail but the specifics of each order were recorded with equal precision.

Important information such as that relating to the particular health condition of each of the people who were to receive the meals was also noted, and it is incredibly heartening to think that the people who give up their time to help others do so in such a committed, efficient and dedicated manner, and I might say that they are very cheerful while they are doing it. I would like to extend my thanks to Mr Cam Pearce, General Manager of Meals on Wheels; Mrs Ann Hobbs, Chairperson of the Northfield branch; and Max Martin, Secretary of the Northfield branch. Also, I thank all other volunteers of the Northfield branch for their invitation to me to deliver the meal to Mr Munchenberg.

It is wonderful to see at first-hand the hard work being done by the volunteers, as well as the processes used by Meals on Wheels. In addition, it was certainly a great privilege to be able to share a significant milestone in the organisation's continuing community service. I will be participating in delivering meals with those volunteers in future. I would like to have the opportunity to see at first-hand how they work and to share some of my time with them. They are very much appreciated and I know that my constituents who receive the meals are exceptionally grateful, not just because they have a hot meal placed before them but because, for some of them, it is the only contact they have with other people; perhaps, as a result of illness or some other reason, they tend not to go outside their home.

It is a very important service, in terms of providing not only a meal for people but also that personal contact. Someone may be ill and no-one knows about it. Neighbours do not always know, but when the Meals on Wheels volunteer person arrives they certainly know whether there is a problem with respect to the resident to whom they are delivering the meal. I am sure that all members heartily thank them for the wonderful job they do in our community.

EDEN VALLEY FIRE

Mr VENNING (Schubert): I wish to add to the question that I asked today in question time relating to the fire at Eden Valley. The issue was raised with me by individual members of the CFS brigades who attended that fire. I am happy with the ministerial answer as to why the Hon. John Dawkins was not charged, but the more controversial question remains about the order that came through the ranks to 'hush it up'. I would be happy if the minister put an instruction down through the ranks as to why and how the incident happened. I bear no malice or ill will to the Hon. John Dawkins or cast any aspersions on any of the CFS personnel involved, and I compliment them on the wonderful job they do as volunteers on our behalf.

I also want to comment on the member for Mitchell and to say how impressed I was with the courage and the conviction shown by the honourable member. As members

of political parties we all have these frustrations. It does not happen very often that a member—particularly of the Labor Party—decides that enough is enough, walks out and stands on his own. I was very impressed, because he is an intelligent man, as we all know, being one of Labor's lawyers and one of its rising stars who unfortunately did not get a fair go.

He is a man with a lot compassion. We have seen on many occasions over the five or more years that he has been in this place that he is certainly emotive and believes in the issues he espouses on many public occasions. He was one of the few members who had a bit of a whack at the government, and that takes courage, particularly if you are a member of a Labor government. He did it, and all I can say is that many of us noted it and will always remember it. I have known for some time the honourable member's frustrations with respect to the issues he holds dear, and they are, as we know, Labor's policies on the detainees, the working people's advocacy, insurance policies and generally social issues in relation to the working-class people in our community, particularly those he represents in the western suburbs.

Certainly, the honourable member was a very strong advocate for these people and was always consistent in these matters. Also, I believe that he was overlooked when it came to sharing up the prizes of government. I know that when you get into government you all think that you will get a bit of a go, but when you see what has happened I can understand exactly—

The Hon. L. Stevens: Yes, you could.

Mr VENNING: I can, as the minister says. I was rewarded, and I was pleased for the time that we were able to serve in government. I do not believe the member for Mitchell or several other members have been so rewarded; I will not name them because they know who they are. They have been shafted because they have been loyal and they have been unable to speak out. We know who they are and one does not have to be very brave to find out. I know that when I heard on the radio the comments of the member for Mitchell, I thought, 'Good on him!' When I heard the member for Giles next, I thought, 'Good on her, too!' I expected to hear also from another member, whom I will not name, but she did not come on the radio. However, I know what she feels about this, and I thought three or four members could have done the same thing.

Without playing cheap politics, I congratulate the member for what he has done because he has had the courage of his convictions. There would not be too many members on either side of the house, even though they have been frustrated about certain issues, who would have had the courage to do what he has done. The most important thing is that, when he went, he said quite publicly why he took that action. That takes a lot of courage, particularly given his criticisms of and frustration with the way the government was doing its business, especially the fact that everything was being done via the media. That is Mike all the way through. After all, he is not nicknamed Media Mike for nothing and, with Randall Ashbourne right behind him, it is a totally media driven outfit.

Given the Labor philosophies that the member for Mitchell has, I can understand his frustration with issues such as the detainees. He also commented about the lack of teamwork and the style of this government. I can understand, and I wish him all the best. I will not forget the courage he has shown.

Time expired.

ADELAIDE SYMPHONY ORCHESTRA

Ms THOMPSON (Reynell): I begin by reading a copy of a letter that I received from a constituent, and I acknowledge that it prompted me to request the opportunity to make these comments to the house in advance of when I had planned to do so. The letter is addressed to ASO performers, staff and crew and it is from Robert Wiese JP of Morphett Vale. It reads:

> Dear ASO
>
> On Saturday 8 February a friend, my wife, many others and myself had the pleasure of being entertained by you in the very pleasant Market Square at Old Noarlunga.
>
> The sound was perfectly crystal clear and was a credit to the sound crew. I personally congratulated one of the gentlemen involved in the sound section.
>
> The various facilities available were very well organised and quite good, i.e. toilets, food and drinks tents and souvenir tent and the free oval parking with its associated shuttle bus to and from the venue and the oval. The children had good access to the play area.
>
> The audience warmly appreciated Mark Bickley as the Master of Ceremonies. He certainly was an integral part of the successful evening's entertainment.
>
> My only negative comment is that the performance was not long enough, but I know that certain various other factors govern the length of any show. I could have watched and listened for hours.
>
> Thank you to all concerned with this very successful and enjoyable evening. I hope that you can venture down south to Onkaparinga again some time in the future. The ASO is indeed one of the jewels in the crown of South Australia and could hold its own on any performance stage around the world.

Mr Wiese reflected my views on that wonderful evening, and recognition is due to a number of people for our having that opportunity in the outer suburbs.

People do not always appreciate just how difficult it is for people in the outer suburbs to participate in entertainment in the city and, while we have a regional arts program to assist people in the really outer regions to participate in arts activity, I consider that it is also required for the outer suburban areas where many factors make it difficult for people to participate in the cultural events that are offered in the square mile of Adelaide. Robert Wiese is well equipped to comment on the value of this performance. He is an extremely active member of the Noarlunga Theatre Company, one of the numerous local activities that provide entertainment for people in the outer south.

However, the event really owes thanks to the Minister for the Southern Suburbs, who is also the Minister Assisting the Premier in the Arts, and from his experience he recognises how difficult it is for people in the south to participate in many arts and cultural events. He also recognises that they want to participate. There has not been an acceptance of the level of demand for participation in artistic activities in the outer suburbs at all.

I understand that it was anticipated that about 800 people would attend this venture, which is what usually happens when the orchestra tries a new area. I also understand that the latest figures indicate that 1 300 people attended the activity. Not only did they attend but they attended with enthusiasm. I had other engagements so did not get there until 6.30 for a concert that started at 7. At that stage, the Market Square grass area was pretty full. It was clear that people had made the most of it. They had brought a picnic tea and their friends, they had set up and they had a wonderful time.

The venue provided play activities, and thanks for its availability go to the City of Onkaparinga, which also took responsibility for keeping the birds away, because they were inclined to interrupt the orchestral performance. I also

acknowledge STARS (Southern Theatre and ARts Supporter group) and particularly Olive Reader. STARS has worked constantly to get more arts activities in the south and has mounted many of them itself. The success of this performance and the success of the Noarlunga College Theatre, now that it is back in community hands, demonstrates that there is a demand for arts in the south. I commend Mark Bickley, much as it pains me to do so, and perhaps he should stick to being an MC at concerts rather than a footballer. I also commend the orchestra and the conductor, Graham Abbott. Thanks to all involved.

AQUATIC FUNDING

The Hon. M.J. WRIGHT (Minister for Transport): I seek leave to make a personal explanation.

Leave granted.

The Hon. M.J. WRIGHT: Early today in question time I believe I said that an email sent by my staff to the member for Newland contained advice about the payment of $210 000 to the Adelaide City Council for the continued operation of the Adelaide Aquatic Centre. While at the time I understood that to be the case, I have since been informed that the email to the member for Newland did not contain that information about the electronic transfer of funds and I apologise to the member for Newland. The email was an update from my staff to the member for Newland on the continued consultations between parties concerning the Adelaide Aquatic Centre. I wish to clarify that because I was wrong and I sincerely apologise to the member for Newland.

SEXUAL ABUSE

Mr HANNA (Mitchell): I move:

That it is the opinion of this house that a joint committee be appointed to inquire into and report upon—

(i) whether minors in South Australian institutional care, in the past 30 years, were subjected to systematic sexual abuse;

(ii) what measures were in place to safeguard against any such abuse and how such measures failed; and

(iii) how any victims of such abuse might best be assisted in their healing process;

and that in the event of a joint committee being appointed the House of Assembly be represented on the committee by three members, of whom two shall form a quorum of assembly members necessary to be present at all sittings of the committee; and that a message be sent to the Legislative Council transmitting the foregoing resolution and requesting its concurrence thereto.

This motion stems from deep concern, shared by many members of parliament, about allegations which have been raised over a period of time about paedophile abuse of young people who were kept in South Australian institutions, over a long period of time. More specifically, the Channel 7 program *Today Tonight* recently aired very specific allegations of sexual abuse and named both a victim and a perpetrator in a recent program. But the general allegations made on the Channel 7 program were much broader than that. They suggested that there had been systematic sexual abuse of wards of the state, orphans, and generally people who were in the care of South Australian institutions.

A number of general allegations were made about sexual abuse of that nature that had occurred in the 1970s, 1980s, and even the 1990s. The background circumstances reflect a lot of older claims because of the trend in the late 1980s or early 1990s to move towards foster parenting and away from institutional care. So, most of the allegations focus on incidents which were said to have taken place in the 1970s and 1980s.

The motion that I put to the house refers to minors in South Australian institutional care in the past 30 years. The intention there is that the joint committee could look at events of any time over the last 30 years. Certainly, there is a narrow focus to the extent that many people would be subjected to sexual abuse through foster parenting, through having been adopted to people who committed sexual abuse, and the run of the mill sexual abuse that takes place every day of the week in our town from fathers, uncles, stepfathers, family members, family friends, and so on. It is a very sad and difficult topic to deal with. But there is something of particular concern when the abuse is said to have taken place in a systematic way and is said to have taken place in relation to minors held in institutions run by the South Australian government. It is important that the joint committee I propose examine what safeguards were in place, to examine how those safeguards might have failed, as well as the consequences for the victims themselves.

The third main point, which is stated in the motion, is that there must be a focus on healing. There will be some feelings on behalf of some people for sheer retribution. There have certainly been calls in the media to 'bring people to justice', but my view is that the most important thing of all is to assist victims in the healing process, so that where there have been these terrible wrongs in the past they can be alleviated in the hearts and minds of the victims themselves. The Leader of the Opposition, Hon. Rob Kerin, has called for a royal commission to examine these matters. I have said publicly and I say now that I believe that a royal commission is not the best way to proceed.

It is not just a matter of the expense. A royal commission into such a tangled range of issues could cost millions of dollars, and I would rather see that sort of money, or even a fraction of it, spent on service delivery; for example, through organisations such as the Victims Support Service. Through the various counselling services available that money could be very productively used not only for counselling but for appropriate publicity to encourage people to come forward and tell their stories in not only a confidential setting but a healing environment.

One of the most important objections I have to a royal commission is that I believe that victims have been led up the garden path about exactly what is involved in appearing before a royal commission. Because the consequences would be likely to involve the naming of perpetrators, whether or not they are prominent Adelaide identities, as the media suggests occasionally, the fact is that any claims would need to be tested very strenuously. That would mean cross-examination by barristers about the sexual history of the people making the allegations, any offences of dishonesty, any drug abuse; in fact, any factor that would reflect upon their credibility.

Anyone who has been through the courts in respect of sexual assault trials, whether they be of children or of adults, would be well aware just how gruelling, sometimes degrading and sometimes psychologically damaging that sort of courtroom experience can be. I have known many victims in those cases having been left quite shattered after the court

experience, particularly when the burden of proof of matters being beyond reasonable doubt is applied.

There are many sexual assault cases being heard in our District Court every month where these sorts of allegations are brought forward. They are tested in the court and, at the end of the day, it often becomes one word against the other. In those circumstances, even though a judge or a jury may well feel that the victim coming forward is probably telling the truth, they cannot say that the matters have been proved beyond reasonable doubt and so not guilty verdicts are regularly entered in those types of cases. It does not necessarily reflect true justice, but it is the best that our human justice system can provide. It is just a sad fact that justice on earth is not perfect.

However, against that background I think it is important for many people to be able to tell their stories safely, and that is why I have suggested that a joint committee of the parliament hear from victims. It means that they can bring their allegations forward without any fear of defamation. They can have their evidence taken off the record, if need be. They can have their evidence kept securely confidential, if that is what the victims prefer and if that is in the public interest. So it is a secure environment in which their stories can be told, and the committee of members of parliament can then decide the best way forward in terms of dealing with the problems. I am not foreshadowing any conclusions of the committee should this motion pass, but its wording suggests that an emphasis be placed in any conclusions that the committee might reach on the healing of the people who come forward to tell truthfully their stories of sexual abuse.

I reinforce my preference for a joint committee to investigate these matters rather than a royal commission with one anecdote. This story is not directly related to a person who was in a South Australian institution, but it does reflect the difficulty of these sort of claims as they are dealt with in our courts system with the appropriate burden of proof. In the 1990s a woman brought a claim that she had been adopted out in the 1960s and that at that time the department of community welfare (now part of the Department of Human Services) did not adequately screen the people who adopted her. In her adoptive family she was sexually abused and she suffered the psychological scars for the rest of her life.

As a mature adult, she finally began to come to terms with the horrible abuse that she had suffered and she brought legal proceedings. The State of South Australia strenuously opposed her claims, essentially with the argument that the then government officers had taken appropriate steps according to the prevailing practices and knowledge available at the time. The claim ultimately failed in the courts system and two weeks after that she committed suicide. It is this sort of heartbreak which I seek to avoid by having a joint committee examine these difficult issues rather than a royal commission with its array of barristers and the intense and justifiably strenuous cross-examination that that would entail.

In conclusion, I ask for the support of members for this motion to establish a joint committee to examine this difficult issue. Calls for some sort of lengthy and thorough investigation of the range of claims of this nature will not go away. The government will be accused of sidestepping and whitewashing the issue if it does not undertake an inquiry of some kind. In my submission, this is the best form of inquiry. I commend the government for having commissioned the Child Protection Review recently carried out by Robyn Layton QC, and we all look forward to her full report and recommendations being released. However, that report will not address the issues that have been raised by numerous victims concerning events in South Australian institutions over the last 30 years. That is why this joint committee is necessary, and I ask for the support of members to establish it.

Mr MEIER secured the adjournment of the debate.

PREVENTION OF CRUELTY TO ANIMALS (PROHIBITED SURGICAL AND MEDICAL PROCEDURES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 27 November. Page 2031.)

Mrs GERAGHTY (Torrens): I move:

That the debate be adjourned.

The house divided on the motion:

AYES (24)

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

NOES (21)

Brindal, M. K.	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.
Hanna, K.	Kerin, R. G.
Matthew, W. A.	Maywald, K. A.
McFetridge, D. (teller)	Meier, E. J.
Penfold, E. M.	Redmond, I. M.
Scalzi, G.	Venning, I. H.
Williams, M. R.	

Majority of 3 for the ayes.

Motion thus carried.

The SPEAKER: Order! The member for Chaffey and the member for Florey are disorderly. Honourable members will return to their seats. They may have a conversation in the chamber but not so as to show disrespect to the chair and/or disrupt the proceedings of the chamber.

WATER RESOURCES (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 23 October. Page 1709.)

The SPEAKER: Order! Honourable members who have private members' business should be in the chamber. They need to know that they may lose their motion.

Mrs GERAGHTY secured the adjournment of the debate.

WATERWORKS (COUNCIL ROADWORK) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 21 August. Page 1198.)

The SPEAKER: Is it the intention of the government to take over this matter now that the member for Mount Gambier is a minister? Such matters need to be resolved when they come up on the *Notice Paper.* It was first entered by the member as a private member, but he is now a minister.

Mrs GERAGHTY (Torrens): Thank you, sir. I will certainly get some advice on that.

Mr BRINDAL: Sir, is it in order to move that the matter be discharged in view of what you just said?

The SPEAKER: Only by the member.

Mrs GERAGHTY secured the adjournment of the debate.

GENE TECHNOLOGY (TEMPORARY PROHIBITION) BILL

Adjourned debate on second reading.

(Continued from 21 August. Page 1200.)

The SPEAKER: Once more, I remind the member for Torrens of the fact that this is a motion that comes onto the *Notice Paper* from the member for Mount Gambier. I presume there is no advice as to whether the government proposes to take the bill over as a government bill.

Mrs GERAGHTY secured the adjournment of the debate.

SUMMARY OFFENCES (MISUSE OF MOTOR VEHICLES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 28 August. Page 1399.)

Mr MEIER (Unley): The member for Mawson has advised me that the government was going to pick up this legislation in a more comprehensive bill before Christmas. However, apparently that has not been done.

Mrs GERAGHTY secured the adjournment of the debate.

MURRAY RIVER COMMITTEE

Adjourned debate on motion of Mr Brindal:

That this house establish a standing committee of this house on the River Murray.

(Continued from 30 May. Page 398.)

Mr HANNA (Mitchell): I move to amend the motion as follows:

Leave out the words 'Rivery Murray' and insert in lieu thereof 'Natural Resources'.

I have some sympathy for the member for Unley's motion, which stems from the River Murray select committee report. He and I both served on that committee, and one of the key recommendations that came from that committee, which deliberated for about 18 months, was that there should be a specific committee of the parliament to deal with the complex issues surrounding the River Murray. I appreciate that the Minister for Environment and Conservation has proposed a Murray River bill, and that will be dealt with in due course. Of course, this motion does not by itself achieve the desired effect: it is merely a measure to test the waters in the house to see whether there is support for this concept. If there was support in the house, then the next step would be to set up such a standing committee by legislation.

My concern with the motion as it is printed is that it is confined to the River Murray. If we are to have a standing committee of the parliament examining issues surrounding the River Murray, one would quickly find that there are closely related issues which stretch into the South-East and the Mallee and which also include, for example, water usage in Adelaide and the Flinders Ranges area. One would also soon find issues closely related to the River Murray which reflect concerns in a range of places throughout the state.

My next thought was that it would be more appropriate to have a committee which dealt with water resources generally—not just the River Murray but the ability of industry, primary producers and individual consumers to have access to the water they need throughout the state. It then occurred to me—and I am grateful for my discussions with the member for Chaffey in relation to this—that the trend in the whole area of resource management is towards an integrated approach towards the range of natural resources. It is not just a matter of looking at water resources, because water resources are inextricably linked with issues relating to soil and everything that one can find in the environment; for example, issues of vegetation will also be involved.

It seems to me that the most appropriate approach, in the light of the principle of integrated natural resource management, is to have a standing committee—if we are to have another standing committee—in relation to natural resources generally rather than just the Murray River or just water resources. Finally, I leave the thought I have about the existing standing committees of the parliament. In my opinion, it would be more appropriate for the Economic and Finance Committee to include in its scope considerations relating to statutory authorities.

The Statutory Authorities Review Committee, which was originally proposed to enable a sinecure to be provided to a particular Liberal upper house member, does not have the work to do that it once had, and I believe that the Economic and Finance Committee could take over that role. That would leave a place for a sixth standing committee, which could be the natural resources committee. That means that there would not be any additional expenditure, and I think that would be an attractive feature of such a proposal to the public. That is why I have moved this amendment. Of course, I have had discussions with the mover of the motion. I do not want to pre-empt what he might say in this place about it, but at least the member for Unley can see the force of what I have put forward.

The Hon. D.C. KOTZ (Newland): I seek leave to make a personal explanation.

The SPEAKER: I will deal with that after we have dealt with this motion.

Mrs Geraghty interjecting:

Mr BRINDAL (Unley): I am at a bit of a loss, as the Government Whip is indicating that she would like to adjourn the debate. I will explain to the house in summing up that the reason that I was seeking—

Mrs GERAGHTY (Torrens): We have an amendment which has just been moved and which we have not had an

opportunity to look at. We have not dealt with the amendment.

The SPEAKER: The member for Torrens has a right to the call and, if the member for Torrens wishes to debate it, the person who wants to do something has the right to the call before the member for Unley summarises the debate. Members need to be in the chamber. These matters are not insignificant. We invite public denigration—that is the kindest word I can think of—for the way in which we are indifferent to the opinions and concerns that are brought here by our fellow members when we constantly adjourn those matters, preventing any ventilation of the issues that are implied by the propositions before the house. I can do no more than plead with members that they pay attention to private members' time lest the public argument begins that it should be disbanded.

Mrs GERAGHTY: Could I just have it clarified, sir? The member for Mitchell has moved an amendment, which has been seconded. I would, as would other members I am sure, like time to consider that. To give us time to consider the amendment, I move:

That the debate be adjourned.

The SPEAKER: I am in the hands of the house in that respect.

Mr BRINDAL: In fairness to the member for Mitchell, whom I have just consulted, and the Government Whip who has indicated something, I would appreciate it if you did not see me stand.

The SPEAKER: The member is correct; he does not have the call. The question is that the motion be adjourned.

Motion carried; debate adjourned.

DIVISION BELLS

The Hon. D.C. KOTZ (Newland): Mr Speaker, I seek leave to make a personal explanation.

Leave granted.

The Hon. D.C. KOTZ: I wish to draw to the attention of the house that, during the time of the previous division that was held in the House of Assembly, I inadvertently was unable to arrive before the doors were locked. The reason for my inability to attend is somewhat distressing and therefore I bring it to the attention of the house. That is, there appears to be what I would class as a dead zone. The bells cannot be heard on the lower ground floor of the building between the *Advertiser* press area and the section of the hallway on either side. It was not until I came out of that area that I could hear the bells ringing, and I then approached the doors to find them locked.

On investigation with other members, I also find that members cannot hear the bells ringing in the centre hallway. I have been told that there is another section in the building—I am not sure where—where there are dead zones. I believe that, in terms of members' voting obligations in future, some attention should be paid to this problem and the matter attended to as quickly as possible.

The SPEAKER: I thank the member for drawing attention to the fact that there are several dead zones in the building which were not wired for division bells during the refurbishment of the building some eight years ago. The member is quite right: I know that in the centre hall on the lower ground floor, in the centre hall toilets—that is the public toilets in that area—and in the press office accommodation in that place and on some other floors, in *Hansard*, for instance, there are no division bells or warning lights.

I acknowledge that that is an oversight and one which ought to be addressed because it otherwise is an embarrassment to honourable members who may find themselves in that place, for good reason, at a time a division is called and, not knowing of that division, thus missing it and thereby collectively embarrassing the chamber, of which they are a member, in consequence of not having been provided due warning. I guess it is a matter that the Joint Parliamentary Service Committee and the joint Presiding Officers (including me, of course, as Speaker, in the interests of better proceedings in the House of Assembly) will need to take up with the Treasurer to ensure that this embarrassment does not become a public embarrassment to us.

WATER RESOURCES (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 23 October. Page 1709.)

Mrs GERAGHTY (Torrens): I seek to advise you, sir, that the member for MacKillop wishes to recall Orders of the Day, Private Members Business Bills/Committees/Regulations No. 9.

The SPEAKER: Well, the member for MacKillop will need to get to his place with an appropriate motion enabling us to deal with it in an orderly manner according to the provisions of standing orders such as may need immediate amendment to accommodate it.

Mrs GERAGHTY: Yes, sir, he is doing so.

Mr WILLIAMS (MacKillop): I move:

That standing orders be so far suspended as to enable me to move a motion forthwith for the rescission of the vote on Order of the Day Private Members Business Bills/Committees/Regulations No. 9.

The SPEAKER: An absolute majority of the whole number of members not being present, ring the bells.

An absolute majority of the whole number of members being present:

The SPEAKER: Order! Members must remain in the chamber, and that includes the minister, the member for Unley and the Treasurer. Order! Those members who just left the chamber will return. The member for Unley and the Deputy Premier should understand that when a quorum is called and they come into the chamber they shall remain until the matter for which the quorum was called is dealt with. They will return to their places forthwith.

Motion carried.

Mr WILLIAMS: I move:

That the vote adjourning Order of the Day Private Members Business/Bills/Committees/Regulations No. 9 taken in the house today be rescinded.

Motion carried.

The Hon. J.D. HILL (Minister for Environment and Conservation): I do apologise to the house for not being in the chamber when this matter was originally called on, and I apologise for having to go through the rescission process to bring it up to date. I did indicate to the member for MacKillop that I was happy to deal with it tomorrow; I did not realise that it would be called on today. I advise the house that the member for MacKillop has proposed two amendments to the Water Resources Act of 1997. The first proposed

amendment relates to water holding allocations, which is neither necessary nor supported by the government as the act already enables water allocations, including holding allocations, to be transferred absolutely or for a limited period. As I say, I do not support this amendment.

The second proposed amendment relates to a shortcoming in the current conflict of interest provisions in the act. This shortcoming was included in the list of suggested amendments resulting from the review of the operation of the Water Resources Act. The majority of those amendments will be considered in the preparation of the draft Natural Resource Management Bill. However, the member for MacKillop's private member's bill presents an opportunity to fix this conflict of interest now rather than wait some time down the track. I commend the honourable member for the introduction of this bill.

During 2001 the South-East Catchment Water Management Board sought advice from the Crown Solicitor's office to clarify the potential conflicts of interest that may arise for members of the board in the performance of their functions dealing with the allocation of water and the imposition of levies under the act. The Crown Solicitor's office advised that the current provisions in the act relating to conflict of interest may lead to a situation whereby a catchment water management board established under the act would be unable effectively to carry out a number of essential functions. The act prohibits the participation in board meetings by a member 'who has direct or indirect personal or pecuniary interest in a matter decided or under consideration' by the board.

For a person to be personally interested in a matter, the circumstances must single out that person as having a special or extraordinary interest not shared universally or by a substantial number of people. However, a person has a pecuniary interest if it would lead him or her to gain financially or would at least establish a reasonable expectation that he or she may so gain. It is irrelevant if the interest is widely or even universally shared.

A problem could arise where a matter is under consideration by a board in which a large proportion of board members have a personal or pecuniary interest and therefore cannot take part in consideration or decision making in relation to that matter. For example, it is likely that a board member with a water holding or taking allocation is likely to have a pecuniary interest in a matter relating to whether there should be a water holding or taking levy. Where a significant number of board members find themselves in this position, the board would be unable to form a quorum in order to make a decision on the matter.

The conflict of interest provisions in the Local Government Act 1999 provide a model for an amendment to the Water Resources Act 1997. The provisions prohibit a member deciding matters in which they would have a reasonable expectation of gaining a pecuniary benefit. However, expressly accepted is 'a benefit or detriment that would be enjoyed or suffered in common with all or a substantial proportion of the ratepayers, electors or residents of the area or ward or some other substantial class of persons.' (Section 73 of the LGA Act.) This means that a council is able to make decisions, for instance, on the imposition of rates, a matter in which all the members would otherwise have a pecuniary interest as ratepayers.

An amendment to the Water Resources Act should contain a provision to the effect that only past conflicts of interest on the part of board members should be forgiven where they are held in common with others. In that way, decisions made by the board would be deemed to be made in accordance with the act, even if members had a personal or pecuniary interest in the outcome. Also, members with an interest who participated in such decisions would avoid liability. The amendment proposed provides for that aspect. The conflict of interest provisions in this bill are consistent with all the amendments required to improve the conflict of interest provisions, and accordingly the second amendment proposed in the bill is supported.

Mr WILLIAMS (MacKillop): I apologise to the house for putting it through the hassle of having to rescind an earlier motion. There was an oversight of the proceedings by both the minister and myself and we were expecting this matter to be called on tomorrow. I hope that the house will accept my apologies for that. I thank the minister, who approached me earlier in the day and said that he was willing to accept one of the amendments that I have proposed. However, I am disappointed that the minister is not willing to accept the other amendment. As I said when I introduced this bill, it is of a minor, technical nature and merely seeks to clarify what I can only refer to as the legalese jargon that is used in the principal act.

I am pleased that the minister is willing to accept the other amendment, and it is that matter that has principally induced me to bring this bill before the house. It is quite urgent and the sooner it is rectified the better. So, I thank the minister for agreeing to accept the amendment that I have proposed, and I hope that it will pass through this house forthwith.

Bill read a second time.

In committee.

Clause 1 passed.

Clause 2.

The Hon. J.D. HILL: The government does not support this measure and we will be voting against the clause.

The Hon. I.P. LEWIS: I ask the mover to explain the import of this clause, as it would change the meaning of the act, so that I can understand the reason for the government's reluctance to accept the proposition as he has put it and to move no other variation of the proposition in clause 2 to simply have it struck out.

Mr WILLIAMS: For the sake of the member for Hammond, I advise that section 122A(2)(c) of the act provides:

> The levy for a financial year is not payable if the licensee, on application to the minister, satisfies the minister that he or she made a genuine, but unsuccessful, attempt throughout, or through the greater part of, the financial year to find a person who is willing to buy the water (holding) allocation subject to the condition of that allocation.

On reading that, the lay person or the average reader (and it is very hard to define such a person) would assume that the phraseology 'to find a person who is willing to buy the water holding allocation' means to buy that in perpetuity. I am told by parliamentary counsel that that language means to buy on either a permanent or temporary basis. I seek to change the wording so that it more reflects that in lay terminology, so that it means to buy on a permanent basis or on a temporary basis, which to me would be a lease.

The Hon. J.D. HILL: I note the comments by the Speaker and I indicate to members that the government will be bringing to the parliament later this year a substantial bill that deals with a whole lot of these matters. I give an undertaking that I will look more closely at that provision to see whether we can get clearer language in the measure. I

would be reluctant to accept it now without having expert advice as to whether or not it may change the meaning in some other way. However, I give an undertaking to the committee to look more closely at it and, if we can accommodate what the member for Mackillop wants to do, I will certainly do that.

The Hon. I.P. LEWIS: I thank both the member for Mackillop and the minister for their elucidation on that point because it thereby enables me in the committee stage to express my opinion about that particular matter and my belief about what is ideal policy. It is probably well known to both of them, but it may not be at all well known to other members. My belief is that no such right of access to water ought to be held by anybody in perpetuity. We cannot guarantee that it will rain. That is my first reason for so saying. We cannot guarantee that an aquifer, whether a surface unconfined aquifer or a confined aquifer at greater depth, will always be there. When I say 'we', I mean not only us as members of parliament making the law but also us as citizens of the present day accepting the legitimacy of parliament to make law. We are not God. Yet, if we confer a property right in law to somebody and, with the same law, enable a transaction to be undertaken between that person and someone else to transfer it, we, as legislators, are making a fatal mistake.

At any moment there might be an earthquake that would shatter the confining layer beneath the aquifer that supported it and it would be lost, and in those circumstances the Crown—that is all taxpayers—would be liable should an action brought against it for the loss of the asset be successful. That is an arguable point, but why waste the time in the courts? That is my first point about transferring rights to water in perpetuity.

My second point about it is that once such property rights are created in perpetuity it slows down, if not completely stops, the movement of that valuable resource that really belongs to the public domain, and rights to its access should be therefore tenured. It slows down the transfer of that resource from where it might be in economic use to where it could be generating much greater wealth and prosperity for society at large, and that is not in the public interest.

It is in that general case, then, that I argue very strongly that we ought not to make law that creates property rights in perpetuity to things which are, by definition, geologically ephemeral. Equally, we should not make law that creates property rights in perpetuity where those property rights are transferable from the land on which they may be used to other land, or from one person to another or from one interest to another, and thereby generate greater prosperity for the whole of society. They really do belong, in the perpetual sense, to the Crown—that means to all taxpayers, to all citizens—and ought therefore to be transferred only for a tenured period.

The last point I make goes much further than we are in contemplating this clause, in that it applies generally across the board. Notwithstanding that fact, it still applies to this clause and my remarks are therefore in order. I urge the minister and any other member—indeed all members—to understand the benefit that could accrue to the society for which we seek to make laws if we make them more wisely than has been contemplated in the past, or the disbenefits if we fail to do so. I thank all members for their patience in hearing me on the reasons for my disenchantment with the notion that there can be property rights in perpetuity in a commodity such as underground water, whether it is from rainfall recharge in the surface aquifer or from elsewhere in a confined aquifer.

Mr WILLIAMS: I thank the member for Hammond for his comments because it gives me the opportunity to also make a comment. I will endeavour to be brief. For the benefit of the member for Hammond, I think last Friday I had an interview with Hugo Hopton, the CEO of the South-East Catchment Water Management Board, when we went through the draft catchment plan that the minister will have fairly shortly and will be obliged to look at and, if he finds acceptable, to sign off on.

The member for Hammond might be interested to know that one of the points I made to Mr Hopton about the plan was that I thought it failed to address the very matter that the member for Hammond raises. In my opinion there has been in the South-East in recent years the building of a belief amongst those people who hold a water licence that that water licence does entitle them to a specific quantity of water at a specific quality in perpetuity, and that this is a fundamental right that they have. I have argued consistently over a number of years now that a water licence should entitle the holder to an extraction of a share of whatever may be available from time to time.

I implored Mr Hopton to take that point back to his board when they were considering the matter. I think they were doing that some time today and, if they do not seek to amend the draft plan by inserting something along those lines, I hope the minister will look at that matter so that the draft water plan spells out exactly what a water licence entitles a holder to because, based on Crown Law advice given to various ministers over time and reading other documents produced by what is now the minister's department, I do not believe that the water licence does confer that sort of ownership of which those people are trying to build an expectation. I think it is high time that we actually documented this in things like the local water plans. I thank the member for Hammond for giving me the opportunity in this debate to once again bring this point to the attention of the minister.

Clause negatived.

Clause 3.

The Hon. I.P. LEWIS: Will the member for MacKillop explain the benefit which this clause will provide should it become law over and above the provision that presently prevails in the act?

Mr WILLIAMS: For the benefit of the member for Hammond, schedule 2 of the Water Resources Act—I do not know the history of the act because I was not in this place when it was first passed by this house—contains a very unique set of provisions relating to conflict of interest. The way it is spelt out in that schedule, it virtually makes it impossible for any water catchment management board to carry out the functions which it is obliged to carry out. The conflict of interest provisions are so strict that they would prevent anyone from being party to a debate and a resolution following that debate to set a land-based levy or a levy which is collected by the local council if they were indeed a ratepayer of that council. In my opinion, it is so strict that it is a nonsense.

The Hon. J.D. Hill: That must be a mistake.

Mr WILLIAMS: I do know how it got into the act in the first place. It was obviously an oversight by the parliament of the day. Crown Law suggests that a much better way would be to copy what is in the Local Government Act with regard to conflict of interest, and that is exactly what this clause does: it replaces the existing provisions with regard to

conflict of interest in the Water Resources Act with those which are currently in the Local Government Act.

Clause passed.

Title passed.

Bill reported with an amendment.

Bill read a third time and passed.

CORONERS BILL

The Hon. M.J. ATKINSON (Attorney-General) obtained leave and introduced a bill for an act to provide for the appointment of the State Coroner and other coroners; to establish the Coroner's Court; to make related amendments to other acts and statutory instruments; to repeal the Coroners Act 1975; and for other purposes. Read a first time.

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

That this bill be now read a second time.

The Coroners Bill 2001 was introduced by the former government on 31 May 2001. After passing one house with amendments, the bill lapsed upon the calling of the election. The bill proposed important changes to the coronial jurisdiction in South Australia. The government (then in opposition) supported these changes.

The Coroners Bill 2003, for the most part, repeats the 2001 bill as it was introduced. It repeals the Coroners Act 1975 and makes related amendments to other South Australian acts. Part 1 of the bill contains the formal preliminary clauses including the interpretation provision. One of the key definitions is that of 'reportable death'. Reportable deaths are those deaths which must be reported to the State Coroner or, in some cases, a police officer. The Coroner's Court has jurisdiction to hold inquests to ascertain the cause or circumstances of a reportable death. The term is defined broadly to include the deaths of persons in circumstances where the cause of death is unexpected, unnatural, unusual, violent or unknown, or is or could be related to medical treatment received by the person, or where the person is in custody or under the care of the state by reason of his or her mental or intellectual capacity.

Part 2 of the bill sets out the administration of the coronial jurisdiction in South Australia. The position of State Coroner is retained. The conditions of appointment of the State Coroner are now protected by a seven year term and appointment as a stipendiary magistrate. I seek leave to have the remainder of the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

In keeping with established practices, all Magistrates are appointed as Deputy State Coroners. Other legal practitioners of at least five years standing may be appointed by the Governor as coroners.

The functions of the State Coroner are largely the same as under the 1975 Act with one important difference; the administration of the new Coroner's Court. The State Coroner is provided with authority to delegate any of his or her administrative functions and the Attorney-General is authorised to nominate a Deputy State Coroner to perform the functions of the State Coroner during the latter's absence from official duties. Part 2 of the bill also provides for the appointment of investigators to assist with coronial investigations. Investigators will complement the skills of the police officers assigned to perform investigations for coronial inquiries and inquests. The appointment of investigators is new.

Division 1 of Part 3 of the bill formally establishes the Coroner's Court as a court of record. The Court is to be constituted of a coroner. The Court is given jurisdiction to hold inquests to ascertain the cause or circumstances of events prescribed under the legislation. The bill provides for the appointment of Court staff, including counsel, to assist the Court. Although the current legislation does not recognise the Coroners' Court, at common-law a coroner is a judicial office, and coroners court are courts of record. The provisions of Division 1 Part 3 of the bill give formal recognition to the common-law position.

Division 2 of Part 3 of the bill sets out the practice and procedure of the Coroner's Court. These provisions are, again, generally consistent with the provisions governing the practice and procedure of inquests conducted by coroners under the current legislation. The Court is, however, given greater flexibility to accept evidence from children under 12, or from persons who are illiterate or who have intellectual disabilities.

Part 4 of the bill governs the holding of inquests by the Coroner's Court. The Court is given power to hold inquests into reportable deaths, the disappearance of any person from within the State or of any person ordinarily resident in the State, a fire or accident that causes injury to any person or property, or any other event as required by other legislation. Specifically, the Court must hold an inquest into a death in custody. Conversely, the Court is prohibited from commencing or proceeding with an inquest, the subject matter of which has resulted in criminal charges being laid against any person, until the criminal proceedings have been disposed of, withdrawn or permanently stayed.

Both the State Coroner and the Coroner's Court are given extensive powers of inquiry. These powers are generally consistent with the powers granted to the State Coroner under the current legislation and include the power to enter premises and remove evidence, to examine and copy documents, to issue warrants for the removal of bodies and for exhumations, and the power to direct that post-mortems be conducted.

Part 4 of the bill also provides the Coroner's Court with powers for the purpose of conducting inquests, including the issuing of summonses compelling witnesses to attend inquests or requiring the production of documents, the power to inspect, retain and copy documents, and the power to require a person to give evidence on oath or affirmation. The informal inquisitorial nature of coronial inquiries is maintained. The Court is not bound by the rules of evidence and may inform itself on any matter as it thinks fit. The Court must act according to equity, good conscience and the substantial merits of the case, without regard to technicalities or legal forms. A person's right against self-incrimination is maintained.

Once an inquest has been completed, the Coroner's Court is required to hand down its findings as soon as practicable. As is currently the position with coronial inquests, the Court is prohibited from making any finding of civil or criminal liability. The bill vests in the Court the power to make recommendations that might prevent or reduce the likelihood of a recurrence of an event similar to the event that was the subject of the inquest.

Inquests may be re-opened at any time or the Supreme Court may, on application of the Attorney-General or a person with sufficient interest in a finding, order that the finding be set aside.

Under Part 5 of the bill, a person, on becoming aware of a reportable death, must notify the State Coroner or (except for a death in custody) a police officer of the reportable death. A new offence, that of failing to provide a coroner or police officer with information a person has about a reportable death, is created. This is to ensure all relevant information about a death is provided to a coroner or police officer in a timely manner.

Part 6 of the bill contains miscellaneous provisions, some of which repeat equivalent provisions in the current legislation, while some are new. The State Coroner may now exercise any of the powers granted under the legislation for the purpose of assisting a coroner of another State or Territory to conduct an inquiry or inquest under that State or Territory's coronial legislation. Already, the Victorian, New South Wales and Western Australian legislation contain equivalent provisions that will enable assistance to be rendered to a coroner in South Australia. The South Australian legislation will reciprocate this benefit.

The bill also ensures that information about persons obtained in the course of administering the legislation is protected from improper disclosure while, at the same time, ensuring the openness of the coronial jurisdiction. To assist the State Coroner in injury and death prevention, the State Coroner is given power to provide to persons or bodies information derived from the Court's records or other sources for research, education or public-policy development.

A number of transitional provisions and consequential amendments to State legislation will be necessary. These provisions are contained in the Schedule of the bill.

I commend this bill to the house.

Explanation of Clauses

This is a bill for an Act to provide for the State Coroner and other coroners and to establish the Coroner's Court. The new Act will replace the *Coroners Act 1975* (the repealed Act) which is to be repealed (*see the Schedule*).

Part 1: Preliminary

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Interpretation

This clause contains the definitions of words and phrases used in the bill. In particular, a coroner is defined to mean the State Coroner, a Deputy State Coroner or any other coroner appointed under proposed Part 2.

The Coroner's Court must hold an inquest to ascertain the cause or circumstances of a death in custody (*see clause 21*). A death in custody is a death of a person where there is reason to believe that the death occurred, or the cause of death, or a possible cause of death, arose, or may have arisen, while the person—

(a) was being detained in any place within the State under any Act or law, including an Act or law providing for home detention; or

(b) was in the process of being apprehended or held—

- at any place (whether within or outside the State) by a person authorised to do so under any Act or law of the State; or
- at any place within the State—by a person authorised to do so under the law of any other jurisdiction; or

(c) was evading apprehension by a person referred to in paragraph *(b)*; or

(d) was escaping or attempting to escape from any place or person referred to in paragraph *(a)* or *(b)*.

The Coroner's Court may hold an inquest to ascertain the cause or circumstances of a reportable death (*see clause 21*). A reportable death is the State death of a person—

(a) by unexpected, unnatural, unusual, violent or unknown cause; or

(b) on an aircraft during a flight, or on a vessel during a voyage; or

(c) in custody; or

(d) that occurs during or as a result, or within 24 hours, of the carrying out of a surgical procedure or an invasive medical or diagnostic procedure, or the administration of an anaesthetic for the purposes of carrying out such a procedure (not being a procedure specified by the regulations to be a procedure to which this paragraph does not apply); or

(e) that occurs at a place other than a hospital but within 24 hours of the person having been discharged from a hospital after being an inpatient of the hospital or the person having sought emergency treatment at a hospital; or

(f) where the person was, at the time of death—

- a protected person within the meaning of the *Aged and Infirm Persons' Property Act 1940* or the *Guardianship and Administration Act 1993*; or
- in the custody or under the guardianship of the Minister under the *Children's Protection Act 1993*; or
- a patient in an approved treatment centre under the *Mental Health Act 1993*; or
- a resident of a licensed supported residential facility under the *Supported Residential Facilities Act 1992*; or
- accommodated in a hospital or other treatment facility for the purposes of being treated for mental illness or drug addiction; or

(g) that occurs in the course or as a result, or within 24 hours, of the person receiving medical treatment to which consent has been given under Part 5 of the *Guardianship and Administration Act 1993*; or

(h) where no certificate as to the cause of death has been given to the Registrar of Births, Deaths and Marriages; or

(i) that occurs in prescribed circumstances.

Part 2: Administration

Clause 4: Appointment of State Coroner

There will be a State Coroner (who will be a stipendiary magistrate) appointed by the Governor for a term of 7 years.

Clause 5: Magistrates to be Deputy State Coroners

Each Magistrate is a Deputy State Coroner for the purposes of the proposed Act.

Clause 6: Appointment of coroners

The Governor may appoint a legal practitioner of at least 5 years standing to be a coroner.

Clause 7: Functions of State Coroner

The State Coroner has the following functions:

- to administer the Coroner's Court;
- to oversee and co-ordinate coronial services in the State;
- to perform such other functions as are conferred on the State Coroner by or under this proposed new Act or any other Act.

In the absence of the State Coroner from official duties, responsibility for performance of the State Coroner's functions during that absence will devolve on a Deputy State Coroner nominated by the Attorney-General.

Clause 8: Delegation of State Coroner's administrative functions and powers

The State Coroner may delegate any of the State Coroner's administrative functions or powers (other than the power to delegate) under this measure or some other measure to another coroner, the principal administrative officer of the Coroner's Court, or any other suitable person.

Clause 9: Appointment of investigators

All police officers are investigators for the purposes of the proposed Act (*see definition of investigator in clause 3*). The Attorney-General may also appoint a person to be an investigator for the purposes of the proposed Act.

Part 3: Coroner's Court

Division 1—Coroner's Court and its staff

Clause 10: Establishment of Court

The Coroner's Court of South Australia is established.

Clause 11: Court of record

The Coroner's Court is a court of record.

Clause 12: Seal

The Coroner's Court will have such seals as are necessary for the transaction of its business and a document apparently sealed with a seal of the Court will, in the absence of evidence to the contrary, be taken to have been duly issued under the authority of the Court.

Clause 13: Jurisdiction of Court

The jurisdiction of the Coroner's Court is to hold inquests in order to ascertain the cause or circumstances of the events prescribed under this proposed Act or any other Act.

Clause 14: Constitution of Court

The Coroner's Court is to be constituted of a coroner. The Court may, at any one time, be separately constituted of a coroner for the holding of a number of separate inquests and if the coroner constituting the Court for the purposes of any proceedings dies or is for any other reason unable to continue with the proceedings, the Court constituted of another coroner may complete the proceedings.

Clause 15: Administrative and ancillary staff

The Coroner's Court's administrative and ancillary staff will consist of any legal practitioner appointed to assist the Court as counsel and any other persons appointed to the non-judicial staff of the Court and will be appointed under the *Courts Administration Act 1993*.

Clause 16: Responsibilities of staff

A member of the administrative or ancillary staff of the Coroner's Court is responsible to the State Coroner (through any properly constituted administrative superior) for the proper and efficient discharge of his or her duties.

Division 2—Practice and procedure of Coroner's Court

Clause 17: Time and place of sittings

The Coroner's Court may sit at any time at any place and will sit at such times and places as the State Coroner may direct.

Clause 18: Adjournment from time to time and place to place

The Coroner's Court may adjourn proceedings from time to time and from place to place, adjourn proceedings to a time and place to be fixed, or order the transfer of proceedings from place to place.

Clause 19: Inquests to be open

Subject to Part 8 of the *Evidence Act 1929* or any other Act, inquests held by the Coroner's Court must be open to the public. However, the Court may also exercise the powers conferred on the Court under Part 8 of that Act relating to clearing courts and suppressing publication of evidence if the Court considers it desirable to do so in the interest of national security.

Clause 20: Right of appearance and taking evidence

The following persons are entitled to appear personally or by counsel in proceedings before the Coroner's Court:

- the Attorney-General;
- any person who, in the opinion of the Court, has a sufficient interest in the subject or result of the proceedings.

A person appearing before the Court may examine and cross-examine any witness testifying in the proceedings.

Subclauses (3) to (6) are substantially the same as section 104(4) to (6) of the *Summary Procedure Act 1921*. These subclauses provide that the Court may accept evidence in the proceedings from a witness by affidavit or by written statement verified by declaration in the form prescribed by the rules. However, if the witness is a child under the age of 12 years or a person who is illiterate or suffers from an intellectual disability, the witness's statement may be in the form of a written statement taken down by a coroner or an investigator at an interview with the witness and verified by the coroner or investigator, by declaration in the form prescribed by the rules, as an accurate record of the witness's oral statement. The Court may require a person who has given evidence by affidavit or written statement to attend before the Court for the purposes of examination and cross-examination. It is an offence punishable by imprisonment for 2 years if—

- a written statement made by a person under this clause is false or misleading in a material particular; and
- the person knew that the statement was false or misleading.

Part 4: Inquests

Clause 21: Holding of inquests by Court

The Coroner's Court must hold an inquest to ascertain the cause or circumstances of the following events:

- a death in custody (*as defined in clause 3*);
- if the State Coroner considers it necessary or desirable to do so, or the Attorney-General so directs—
  - any other reportable death; or
  - the disappearance from any place of a person ordinarily resident in the State; or
  - the disappearance from, or within, the State of any person; or
  - a fire or accident that causes injury to person or property;
- any other event if so required under some other Act.

However, the Court may not commence or proceed further with an inquest if a person has been charged in criminal proceedings with causing the event that is, or is to be, the subject of the inquest, until the criminal proceedings have been disposed of or withdrawn.

An inquest may be held to ascertain the cause or circumstances of more than one event.

Clause 22: Power of inquiry

The State Coroner may exercise the powers set out in this clause for the purposes of determining whether or not it is necessary or desirable to hold an inquest.

The Coroner's Court may exercise the powers set out in this clause for the purposes of an inquest.

The powers are—

(1) to enter at any time and by force (if necessary) any premises in which the State Coroner or Court reasonably believes there is the body of a dead person and view the body;
(2) to enter at any time and by force (if necessary) any premises and inspect and remove anything in or on the premises;
(3) to take photographs, films, audio, video or other recordings;
(4) to examine, copy or take extracts from any records or documents;
(5) to issue a warrant for the removal of the body of a dead person to a specified place;
(6) to issue a warrant for the exhumation of the body, or retrieval of the ashes, of a dead person (an exhumation warrant);
(7) to direct a medical practitioner who is a pathologist, or some other person or body considered by the State Coroner or the Court to be suitably qualified, to perform or to cause to be performed, as the case may require, a post-mortem examination and any other examinations or tests consequent on the post-mortem examination.

An exhumation warrant of the State Coroner may only be issued with the approval of the Attorney-General.

An investigator may exercise the first 4 powers listed if directed to do so by the State Coroner or the Coroner's Court for the purposes referred to therein and, in doing so, must comply with any directions given by the State Coroner or the Court for the purpose.

A person who hinders or obstructs a person exercising a power or executing a warrant under this section or any assistant accompanying such a person or who fails to comply with a direction given by such a person under this clause is—

- in the case of hindering or obstructing, or failing to comply with a direction of, the Court—guilty of a contempt of the Court;
- in any other case—guilty of an offence and liable to a penalty not exceeding $10 000.

Clause 23: Proceedings on inquests

The Coroner's Court may, for the purposes of an inquest—

- by summons, require the appearance before the inquest of a person or the production of relevant records or documents; or
- inspect records or documents produced before it, retain them for a reasonable period and make copies of the records or documents or their contents; or
- require a person to make an oath or affirmation to answer truthfully questions put by the Court or by a person appearing before the Court; or
- require a person appearing before the Court to answer questions put by the Court or by a person appearing before the Court.

If a person fails without reasonable excuse to comply with a summons to appear or there are grounds for believing that, if such a summons were issued, a person would not comply with it, the Court may issue a warrant to have the person arrested and brought before the Court.

If a person who is in custody has been summoned to appear before the Court, the manager of the place in which the person is being detained must cause the person to be brought to the Court as required by the summons.

A person commits a contempt of the Court if the person—

- fails, without reasonable excuse, to comply with a summons issued to appear, or to produce records or documents, before the Court; or
- having been served with a summons to produce a written statement of the contents of a record or document in the English language fails, without reasonable excuse, to comply with the summons or produces a statement that he or she knows, or ought to know, is false or misleading in a material particular; or
- refuses to be sworn or to affirm, or refuses or fails to answer truthfully a relevant question when required to do so by the Court; or
- refuses to obey a lawful direction of the Court; or
- misbehaves before the Court, wilfully insults the Court or interrupts the proceedings of the Court.

A person is not, however, required to answer a question, or to produce a record or document, if

- the answer to the question or the contents of the record or document would tend to incriminate the person of an offence; or
- answering the question or producing the record or document would result in a breach of legal professional privilege.

Clause 24: Principles governing inquests

The Coroner's Court, in holding an inquest, is not bound by the rules of evidence and may inform itself on any matter as it thinks fit and must act according to equity, good conscience and the substantial merits of the case, without regard to technicalities and legal forms.

Clause 25: Findings on inquests

The Coroner's Court must give written findings as to the cause and circumstances of the event the subject of an inquest. A copy of the findings must be forwarded to the Attorney-General. The Court may add to its findings recommendation of the Court.

The Court must not make any finding, or suggestion, of criminal or civil liability on an inquest.

Clause 26: Re-opening of inquests

The Coroner's Court may re-open an inquest at any time and must do so if the Attorney-General so directs and, in the event that an inquest is re-opened, may do one or more of the following:

- confirm any previous finding;
- set aside any previous finding;
- make a fresh finding that appears justified by the evidence.

Clause 27: Application to set aside findings made on inquests

The Supreme Court may, on application (made within 1 month after the finding has been given) by the Attorney-General or a person who has a sufficient interest in a finding made on an inquest, order that the finding be set aside. A finding will not be set aside unless the Supreme Court is of the opinion—

- that the finding is against the evidence or the weight of the evidence adduced before the Coroner's Court; or
- that it is desirable that the finding be set aside because an irregularity has occurred in the proceedings, insufficient inquiry has been made or because of new evidence.

The Supreme Court may (in addition to, or instead of, making such an order) do one or more of the following:

- order that the inquest be re-opened, or that a fresh inquest be held;
- substitute any finding that appears justified;
- make such incidental or ancillary orders (including orders as to costs) as it considers necessary or desirable in the circumstances of the case.

Part 5: Reporting of deaths

Clause 28: Reporting of deaths

A person is under an obligation to, immediately after becoming aware of a death that is or may be a reportable death, notify the State Coroner or (except in the case of a death in custody) a police officer of the death, unless the person believes on reasonable grounds that the death has already been reported, or that the State Coroner is otherwise aware of the death. The penalty for failing to report is a fine of up to $10 000 or imprisonment for 2 years.

The person notifying must—
- give the State Coroner or police officer any information that the person has in relation to the death; and
- if the person is a medical practitioner who was responsible for the medical care of the dead person prior to death or who examined the body of the person after death—give his or her opinion as to the cause of death.

The penalty for failing to provide such information is a fine of up to $5 000.

On being notified of a death under this clause, a police officer must notify the State Coroner immediately of the death and of any information that the police officer has, or has been given, in relation to the matter.

Clause 29: Finding to be made as to cause of notified reportable death

If the State Coroner is notified under this measure of a reportable death, a finding as to the cause of the death must be made by the Coroner's Court, if an inquest is held, or, in any other case, by the State Coroner.

Part 6: Miscellaneous

Clause 30: Order for removal of body for interstate inquest

If the State Coroner has reasonable grounds to believe that an inquest will be held in another State or a Territory of the Commonwealth into the death outside the State of a person whose body is within the State, he or she may issue a warrant for the removal of the body to that other State or Territory.

Clause 31: State Coroner or Court may provide assistance to coroners elsewhere

Even if there is no jurisdiction under the bill for an inquest to be held into a particular event, the State Coroner or the Coroner's Court may exercise their powers for the purpose of assisting a coroner of another State or a Territory of the Commonwealth to conduct an investigation, inquiry or inquest under the law of that State or Territory into the event.

Clause 32: Authorisation for disposal of human remains

If a reportable death occurs and the body of the dead person is within the State, the body is under the exclusive control of the State Coroner until the State Coroner considers that the body is not further required for the purposes of an inquest into the person's death and issues an authorisation for the disposal of human remains in respect of the body.

The State Coroner may refrain from issuing an authorisation for the disposal of human remains in respect of a body until any dispute as to who may be entitled at law to possession of the body for the purposes of its disposal is resolved.

Clause 33: Immunities

A coroner or other person exercising the jurisdiction of the Coroner's Court has the same privileges and immunities from civil liability as a Judge of the Supreme Court.

A coroner, any other member of the administrative or ancillary staff of the Coroner's Court, an investigator or a person assisting an investigator incurs no civil or criminal liability for an honest act or omission in carrying out or exercising, or purportedly carrying out or exercising, official functions or powers. Instead, any civil liability that would have attached to such a person attaches to the Crown.

Clause 34: Confidentiality

A person must not divulge information about a person obtained (whether by the person divulging the information or by some other person) in the course of the administration of this measure, except—
- where the information is publicly known; or
- as required or authorised by this measure or any other Act or law; or
- as reasonably required in connection with the administration of this measure or any other Act; or
- for the purposes of legal proceedings arising out of the administration of this measure; or
- to a government agency or instrumentality of this State, the Commonwealth or another State or a Territory of the Commonwealth for the purposes of the proper performance of its functions; or
- with the consent of the person to whom the information relates.

The penalty for such an offence is a fine of up to $10 000.

Clause 35: Coroners may not be called as witnesses

Regardless of whatever else is contained in this measure, a coroner cannot be called to give evidence before a court or tribunal about anything coming to his or her knowledge in the course of the administration of this measure. This provision does not, however, apply in relation to proceedings against a coroner for an offence.

Clause 36: Punishment of contempts

The Coroner's Court may punish a contempt in the same way as the Magistrates Court, namely—
- it may impose a fine not exceeding $10 000;
- it may commit to prison for a specified term, not exceeding 2 years, or until the contempt is purged.

Clause 37: Accessibility of evidence etc

The State Coroner must, on application by a member of the public, allow the applicant to inspect or obtain a copy of any of the following:
- any process relating to proceedings and forming part of the records of the Coroner's Court;
- a transcript of evidence taken by the Court in any proceedings;
- any documentary material admitted into evidence in any proceedings;
- a transcript of the written findings and any recommendations of the Court;
- an order made by the Court.

However, subclause (2) provides that a member of the public may inspect or obtain a copy of the following material only with the permission of the State Coroner and subject to such conditions as the State coroner thinks appropriate:
- material that was not taken or received in open court;
- material that the Court has suppressed from publication;
- a photograph, slide, film, video tape, audio tape or other form of recording from which a visual image or sound can be produced;
- material of a class prescribed by the regulations.

The State Coroner may charge a fee, fixed by regulation, for inspection or copying of material.

Clause 38: Provision of information derived from Court records etc

The State Coroner may (subject to such conditions as he or she thinks fit), for purposes related to research, education or public policy development, or for any other sociological purpose, provide a person or body with information derived from the records of the Coroner's Court or from any other material to which the State Coroner may give members of the public access pursuant to this measure.

Clause 39: Miscellaneous provisions relating to legal process

Any process of the Coroner's Court may be issued, served or executed on a Sunday as well as any other day and the validity of a process is not affected by the fact that the person who issued it dies or ceases to hold office.

Clause 40: Service

If it is not practicable to serve any process, notice or other document relating to proceedings in the Coroner's Court in the manner otherwise prescribed or contemplated by law, the Court may, by order provide for service by post or make any other provision that may be necessary or desirable for service.

Clause 41: Rules of Court

Rules of the Coroner's Court may be made by the State Coroner.

Clause 42: Regulations

The Governor may make regulations for the purposes contemplated by this measure.

Schedule: Related amendments, repeal and transitional provisions

The Schedule contains related amendments to the following Acts and statutory instruments:
- Births, Deaths and Marriages Registration Act 1996
- Births, Deaths and Marriages Regulations 1996
- Correctional Services Act 1982
- Courts Administration Act 1993
- Cremation Act 2000
- Evidence Act 1929
- Freedom of Information Act 1991
- Harbors and Navigation Act 1993
- Juries Act 1927
- Local Government (Cemetery) Regulations 1995
- Road Traffic Act 1961
- Summary Offences Act 1953
- Transplantation and Anatomy Act 1983

The *Coroners Act 1975* is repealed and necessary transitional arrangements are put in place.

The Hon. W.A. MATTHEW secured the adjournment of the debate.

CRIMINAL LAW (SENTENCING) (SERIOUS REPEAT OFFENDERS) AMENDMENT BILL

The Hon. M.J. ATKINSON (Attorney-General) obtained leave and introduced a bill for an act to amend the Criminal Law (Sentencing) Act 1988. Read a first time.

The Hon. M.J. ATKINSON: I move that:

This bill be now read a second time.

South Australia currently has on the statute book a provision dealing with habitual offenders. The provision in full is in the Criminal Law (Sentencing) Act and states:

Habitual criminals

22.(1) This section applies in relation to offences of the following classes, whether committed before or after the commencement of this Act:

Class 1: Sections 21 to 25—Wounding
Class 2: Section 27—Poisoning
Class 3: Sections 48, 49, 56, 59, 69 and 72—Sexual offences
Class 4: Sections 81 and 82—Abortion
Class 5: Sections 155 to 158—Robbery
Sections 159, 160, 161, 162, 164 and 165—Extortion
Sections 167 to 171—Burglary
Sections 131, 132 and 173—Larceny
Sections 176 to 178 and 182 to 192—Embezzlement, etc.
Sections 195, 196, 197 and 199—False pretences, receiving
Class 6: Section 85(1)—Arson
Class 7: Part 6—Forgery
(Classes 1 to 7 refer to offences under the Criminal Law Consolidation Act 1935)
Class 8: Part IV of the Crimes Act 1914 of the Commonwealth—Coinage.

(2) Where—
(a) a defendant is convicted of an offence that falls within Class 1, 2, 3 or 4 and has had two or more previous convictions of an offence of the same class; or
(b) a defendant is convicted of an offence that falls within Class 5, 6, 7 or 8 and has had three or more previous convictions of an offence of the same class,
the Supreme Court may, on application by the Director of Public Prosecutions, in addition to any other sentence imposed in respect of the offence by the court by which the defendant was convicted, declare that the defendant is an habitual criminal and direct that he or she be detained in custody until further order.

(3) A previous conviction for an offence committed outside South Australia will be regarded as a previous conviction for the purposes of subsection (2) if it is substantially similar to an offence of the relevant class of offences.

(4) The detention of a person under this section will commence on the expiration of all terms of imprisonment that the person is liable to serve.

(5) Subject to subsection (6), a person detained under this section will be detained in such prison as the Minister for Correctional Services from time to time directs.

(6) Subject to the Correctional Services Act 1982, that Act applies to a person detained under this section as if the person were serving a sentence of imprisonment.

(7) Subject to this Act, a person will not be released from detention under the section until the Supreme Court, on application by the Director of Public Prosecutions or the person, discharges the order for detention.

It can be seen at once that this is an antiquated provision. The emphasis on abortion offences betrays its age at once. So, too, when one contemplates what is not there. There is no mention of drug offences, for example. In fact, this provision was enacted in its current form in 1988, when the Criminal Law (Sentencing) Act 1988 was first enacted. It was taken straight from the then sections 319 to 323 of the Criminal Law Consolidation Act, and that provision can be traced, very much without change, to specific legislation, No. 927 of 1907, which was, in turn, a copy of the New South Wales act of 1905. It may well be even older.

It seems clear that the provisions have not been used for some time. The last South Australian case reported on habitual offenders was the High Court decision in White (1968) 122 CLR 467, which was about a declaration made in the mid 1960s.

The South Australian act was received in the Northern Territory at separation, and in Singh (1982) the Federal Court, acting as the Northern Territory Court of Appeal, noted that no such declaration had been made for at least 10 years. In short, it seems that the provision has fallen into desuetude.

There are at least two obvious reasons for this. The first is that the measure of three convictions (which may be all at the same time) is, of itself and without any other criterion, a crude measure of incorrigibility. Some other criteria are needed to sharpen the focus of the measure. The second is that the result of the declaration is indeterminate detention, a result that courts have been astute to avoid for many years now in this and in other contexts. That does not mean that other jurisdictions do not have indefinite sentencing regimes for very serious offences. They do. For example, Western Australia has a regime that gives a sentencing court the discretion to sentence an offender to an indefinite term of imprisonment on top of the usual finite term if the court is satisfied on the balance of probabilities that when the offender would otherwise be released from custody he or she would be a danger to society, or part of it, because of the risk of committing further indictable offences.

This provision was considered by the High Court in Chester (1988) 36 ACrimR 382. The courts have consistently said that the provision should only be used sparingly and in the clearest of cases. That is because of the consequences for the offender and that the court is being asked to do the impossible. It is being asked not only to predict dangerousness (which all concede is not really possible) but is being asked to do it at some future time, usually because the offence will be a very serious one requiring a long, finite sentence in the first place.

Professor Ian Campbell has summarised the current views on the prediction of dangerousness thus:

> It is unnecessary to review the well-thumbed pages of the literature on the fallibility of predictions of dangerousness. The false positives and false negatives in predictions of dangerousness continue to be observed, despite some high positive rates well above chance for some particular offender groups. It suffices to note that the ineradicability of false positives has signalled, for some, the need to abolish or at least limit to the greatest possible extent any form of preventive sentencing based upon fallible psychiatric judgments.

It can be argued, then, with some strength, that any provision based on predictions of dangerousness is unsound, both on practical and theoretical grounds.

The policy question is whether the state can and should be in the business of preventive detention. The general judicial policy on the question can be neatly summarised by quoting from the decision of the High Court in Chester at page 387, as follows:

> . . . it is now firmly established that our common law does not sanction preventive detention. The fundamental principle of proportionality does not permit the increase of a sentence of imprisonment beyond what is proportional to the crime merely for the purpose of extending the protection of society from the recidi-

vism of the offender. . . In the light of this background of settled fundamental legal principle, the power to direct or sentence to [preventive] detention. . . should be confined to very exceptional cases where the exercise of the power is demonstrably necessary to protect society from physical harm.

In Kable (1996) 70 ALJR 814, the High Court struck down as unconstitutional a New South Wales preventive detention statute. Kable was imprisoned on a determinate sentence for the manslaughter of his wife. At the time of his release, he was sending threatening letters from the prison. There was public uproar at the notion of his imminent release in the midst of a pre-election campaign. The New South Wales government of the day passed an act of parliament which said, in just about so many words, that Kable should be detained indefinitely on application to a judge every six months. The High Court strained every nerve to hold the act invalid. It did so, essentially because, the court said, the law confirmed upon judges functions that were incompatible with the judicial function defined by chapter III of the constitution. Yet in Kable we were talking about state courts.

The reasoning involved does not bear close scrutiny, and in my opinion we will never see a case like it again in the High Court. The real and unstated reason must have been the extreme nature of the legislation involved. However, the decision does point to the need to observe limits in enacting any legislation that has an element of preventive detention about it. So long as any preventive detention scheme is rational and preserves a proper judicial process, it should survive High Court scrutiny. Certainly, I am willing to send our newly appointed Solicitor-General (Mr Chris Kourakis QC) to the High Court to defend our legislation, including this legislation.

Despite all the misgivings in the literature and by the courts, all states and territories—all of them—have one or more legislative schemes designed to deal with particularly heinous or dangerous offenders, but some are better designed than others. New South Wales and South Australia retain the old habitual criminals model. The model is not rational. The current South Australian legislation is reasonably restrictive in some ways but irrationally wide in others; for example, three convictions for unlawful wounding put an offender within the scheme, which one might think to be a reasonable thing, but equally, four convictions for shoplifting will also do. For a variety of reasons, the scheme is simply unused. There are policy principles that, although vague, can help us with habitual criminals. They are:

- Any alternative proposal should not be about 'preventive detention' and 'predictions of dangerousness'. These are imprecise subjective phrases with unfortunate connotations. Something far more objective and tangible is needed. The best phrase and policy setting is 'the protection of society'. Sentencing judges are well used to that as a factor in sentence as can be seen in the quotation from Chester above.
- The protection of society from serious offenders is something that concerns everyone. Legislation should be pursued that will give primacy to the protection of society from serious offenders but will not cast the net so wide as to destroy the credibility of the scheme with the judges and the public.
- The current South Australian legislation fails that test. It is too broad and its consequences are too drastic. That is why it is not used. That failure makes a hole in our sentencing system.
- Any alternative scheme should be designed so as to appeal to the public and the parliament as a rational response to the small number of offenders who pose a risk to the public while doing little violence to the principles of justice and fairness that underlie our sentencing system.
- Any such scheme should be capable of being clearly explained to and understood by the public and the parliament.
- Any such scheme should be based on a discretion conferred upon the judiciary and should avoid mandatory sentencing.

Acting on these principles means that the current habitual criminal scheme in the Criminal Law Sentencing Act 1988 should be repealed and replaced. The elements of the scheme that are proposed to replace it are:

- A sentencing court is given the authority to make a declaration that an offender is a serious repeat offender. The reason for the declaration is that it is appropriate to do so for protection of the public. It should be noted that the authority is discretionary. The court is not compelled to invoke it only because the threshold is reached.
- The effects of the declaration are that (a) the court is empowered to impose a sentence for the protection of the public that is more than proportional to the seriousness of the offence actually the subject of the sentence and (b) any non-parole period fixed for the sentence must be at least 80 per cent of the length of the sentence. The effect of the second of these is obvious. A general principle of sentencing law is that the sentencing court must impose a proportionate sentence. The principle of proportionality says that a sentence should not be increased beyond what is proportionate to the gravity of the crime committed by the offender merely to extend the period of protection of society from the risk of reoffending by the offender. This was established in Veen (No. 2)(1988) 33 ACR 230. If the court finds it desirable, that principle may be breached to a degree that the court believes warranted.
- The trigger for the declaration of a serious repeat offender is conviction for at least three offences punishable by a maximum of five years or more (that is the indictable offences listed) and that either a sentence of actual imprisonment has been imposed for each of these offences or, if sentence has yet to be imposed, actual imprisonment would be imposed for each of those offences. The offences must have been committed on at least three separate occasions or in the course of at least three separate courses of conduct.

It does not matter whether the offences are dealt with separately, or together, or are sentences pursuant to section 18A of the Criminal Law (Sentencing) Act, so long as there are three separate courses of conduct involved. I seek leave to have the remainder of the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

For example: A defendant is convicted in one trial of having committed a series of rapes. These rapes occurred in 1999, 2000 and 2001. That defendant is liable to be declared a serious repeat offender if a sentence of actual imprisonment would have been imposed for each of these offences, whether or not it is proposed to sentence the defendant separately or under s 18A.

For example: A defendant is convicted in one trial of a number of offences arising from a bank robbery. He is convicted of armed robbery, attempted murder and malicious wounding. That defendant is not liable to be declared a serious repeat offender. All charges arose from the same course of conduct.

For example: A defendant was convicted in 1990 of burglary of a dwelling house and sentenced to three years imprisonment. On

release, he was convicted in 1994 of rape and sentenced to six years imprisonment. He has now been convicted of serious criminal trespass (home invasion) and will be sentenced to imprisonment. He is liable to be declared a serious repeat offender.

- Not every offence punishable by five years or more will attract this set of provisions. The offences which will do so are listed and concentrate on serious drug offences, offences of violence, home invasion, robbery, arson and causing a bushfire. There is also general provision for other offences committed by the use of violence. It does not apply to young offenders.

This bill represents another element of the law and order contract between the Government and the South Australian public. I commend the bill to the house.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

Clause 3: Amendment provisions

These clauses are formal.

Clause 4: Insertion of Part 2 Division 2A

This clause inserts a new Division 2A in Part 2 of the *Criminal Law (Sentencing) Act 1988* as follows:

Division 2A—Serious repeat offenders

20A. Interpretation

This clause defines the term 'serious offence', which is used in proposed section 20B (and, for the purpose of that definition, also defines 'home invasion' and 'serious drug offence'). It also provides that an offence is only a serious offence if it is punishable by at least 5 years imprisonment and that the measure does not apply to or in relation to an offence committed by a youth.

20B. Declaration that person is a serious repeat offender

This clause empowers a court dealing with a person who has been convicted of a serious offence to declare the person to be a serious repeat offender if certain preconditions are satisfied and the court is of the opinion that the person's history of offending warrants a particularly severe sentence in order to protect the community.

The declaration can only be made if—

- the person has been convicted of at least three offences (committed on three separate occasions) each of which was—
  - a serious offence; or
  - an offence against the law of another State or Territory that would, if committed in this State, be a serious offence; or
  - an offence against a law of the Commonwealth dealing with the unlawful importation of drugs into Australia; and
- the person has been imprisoned in relation to all three offences or, if a penalty is yet to be imposed in respect of any of the offences, a sentence of imprisonment (other than a suspended sentence) is, in the circumstances, the appropriate penalty for that offence.

If a court sentencing a person for a serious offence makes a declaration that the person is a serious repeat offender, the court is not bound to ensure that the sentence it imposes for the offence is proportional to the offence and any non-parole period fixed in relation to the sentence must be at least four-fifths the length of the sentence.

Clause 5: Repeal of section 22

This clause repeals section 22 of the *Criminal Law (Sentencing) Act 1988*, which deals with 'habitual criminals'.

The Hon. W.A. MATTHEW secured the adjournment of the debate.

PROHIBITION OF HUMAN CLONING BILL

The Hon. L. STEVENS (Minister for Health) obtained leave and introduced a bill for an act to prohibit human cloning and other unacceptable practices associated with reproductive technology and for other purposes. Read a first time.

The Hon. L. STEVENS: 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 SPEAKER: Leave is granted, although I must say personally reluctantly for such an important measure.

The Prohibition of Human Cloning Bill 2003, and the Research Involving Human Embryos Bill 2003 that is also being introduced, have been drafted to enable South Australia to be a party to the national scheme for prohibiting human cloning and regulating research on human embryos.

The Commonwealth Acts in this area were passed in December 2002 and now need to be complemented by South Australian legislation to ensure that all such activity is covered within South Australia.

The Bills have been drafted to reflect the Council of Australian Governments (COAG) Agreement of 5 April 2002, the Commonwealth legislation, and to incorporate South Australian legislative requirements.

It is intended that once the Bills are passed, the resulting South Australian Acts will form, with the Commonwealth Acts, part of a national regulatory system to address concerns, including ethical concerns, about scientific developments in human reproduction and the use of human embryos.

HISTORY

The Commonwealth legislation was drafted following COAG's agreement on 5 April 2002 that the Commonwealth, States and Territories would—

- introduce nationally consistent legislation banning human cloning and other unacceptable practices; and
- establish a national regulatory framework for the use of excess embryos created through assisted reproductive technology treatment, with the National Health and Medical Research Council (NHMRC) as the licensing and regulatory body.

Upon coming to this decision, COAG considered the Australian Health Ministers' 'Report on Human Cloning, Assisted Reproductive Technology and Related Matters'. This report was developed after consultation with all States and Territories, the NHMRC, its Australian Health Ethics Committee (AHEC), the Australian Academy of Science and practitioners and researchers.

It also took account of the Andrews Report into human cloning and embryo research prepared by the Federal Government House of Representatives Standing Committee on Legal and Constitutional Affairs.

Recognising that this is a difficult area of public policy, involving complex and sensitive ethical and scientific issues on which the community holds a wide range of views, COAG agreed to allow embryo research under a strict regulatory regime only on existing excess embryos created for assisted reproductive technology treatment. These embryos would otherwise have been destroyed, and it was required that only embryos in existence before 5 April 2002 could be used.

COAG agreed to prohibit the creation of embryos specifically for research purposes and stipulated that research only be conducted with the consent of embryo donors, who are able to specify restrictions on the research uses of such embryos.

NATIONAL CONSISTENCY

Under the COAG Agreement Premiers committed to introducing corresponding legislation to implement a coherent national scheme applying consistent rules across Australia to the use of excess embryos.

The Commonwealth legislation is consistent with the COAG Agreement and empowers the Commonwealth Minister to declare a state law a corresponding law for the purposes of this national scheme.

Commonwealth legislation has limited cover due to constitutional issues while State legislation covers all activity within a State. Therefore every State and Territory needs to introduce or amend legislation to ensure that there is a national scheme covering everyone in Australia regulating the use of excess embryos for research, teaching, training, quality control, audit and commercial endeavours.

The Commonwealth Act requires that it is reviewed after 2 years, and it is intended that corresponding state legislation that forms part of the national scheme will be considered in the light of the results of that review.

THE COMMONWEALTH LEGISLATION

The Commonwealth *Research Involving Embryos and Prohibition of Human Cloning Bill* was tabled in the Federal Parliament on 27 June 2002. The Bill was referred to a Senate Inquiry and split in two in the House of Representatives. The *Prohibition of Human Cloning Act* and the *Research Involving Human Embryos Act* were

passed by the House of Representatives and the Senate in December 2002.

These Acts:

- prohibit the creation, implantation, export or import of a human embryo clone;
- prohibit the creation, implantation, export or import of certain other embryos for ethical and safety reasons;
- establish the NHMRC Embryo Research Licensing Committee to assess and license research and other uses of excess embryos;
- provide for a centralised, publicly available database of information about all licences issued by the NHMRC Licensing Committee.

Because Commonwealth legislation over-rides State legislation where there are inconsistencies between the two, the Commonwealth prohibitions came into effect on 16 January this year and now apply in South Australia.

The licensing scheme comes into operation six months after the legislation passed, so licences for using embryos will be able to be issued in June 2003.

This allows states to introduce and pass legislation or amend current legislation (or both) before the Commonwealth legislation over-rides any inconsistent local legislation.

CURRENT STATE LEGISLATION

The South Australian *Reproductive Technology Act 1988* regulates clinical practice and embryo research in South Australia and established the SA Council on Reproductive Technology.

Under section 14 of the Act, the Council currently licenses research using embryos and gametes in South Australia, but only research that is not detrimental to the embryo.

These Bills propose a scheme that will replace section 14 of the Act with an Act dedicated to regulating the use of excess embryos including research into infertility and embryonic stem cells and other types of research now possible using embryos, but extended to other uses of embryos such as teaching, training, commercial applications and quality assessment.

ACROSS AUSTRALIA

This nationally consistent scheme means that for researchers in some jurisdictions the rules will be significantly tightened, while for others their research capacity will be extended.

South Australia, Western Australia and Victoria have similar legislation and have applied very restrictive licensing requirements to embryo research for some years.

For the national scheme to be effected, these three states need to amend their legislation. Other States and Territories need to introduce legislation, implementing legal oversight of embryo research for the first time.

CORRESPONDING STATE LEGISLATION

It is important that South Australia has its own legislation in this area, especially to cover those who are not captured under the Commonwealth legislation.

The two Bills presented to the SA Parliament confer administrative functions on the NHMRC Licensing Committee under the State Act by appointing the NHMRC Licensing Committee as the authorised licensing body under State legislation and authorising the Committee to appoint inspectors.

This, together with a proposed Intergovernmental Agreement, preserves for the South Australian Government some degree of influence over future amendments to the legislation constituting the national scheme and allows the South Australian Parliament to consider amendments to the South Australian Act and Regulations.

THE SOUTH AUSTRALIAN PROHIBITION OF HUMAN CLONING BILL 2003

The Prohibition of Human Cloning Bill incorporates the relevant provisions and definitions of the Commonwealth *Prohibition of Human Cloning Act 2003*.

SAFEGUARDS

This Bill takes a very conservative approach.

It places strict limitations on embryo research, prohibiting the creation of embryos for research. It prohibits both reproductive cloning of whole human beings and therapeutic cloning for treatment of patients.

The definition of a human embryo is designed to be broad and to capture somatic cell nuclear transfer (therapeutic cloning techniques using human ova and somatic cell DNA) and parthenogenesis (triggering human ova to develop in a similar way to an embryo without fertilisation by a sperm), and sufficiently inclusive so as to capture emerging technologies.

The Bill includes a series of other prohibitions that mirror many of those included currently in the Code of Ethical Research Practice which is incorporated as a regulation under the SA Reproductive Technology Act.

These include bans on:

- creating an embryo with genetic material from more than two people;
- developing a human embryo outside the body of a woman for more than 14 days;
- using precursor cells from a human embryo or a human foetus to create a human embryo;
- altering the genome of a human cell in such a way that the alteration can be inherited by descendants ;
- collecting a viable human embryo from the body of a woman;
- creating a chimeric or hybrid embryo that is generated from a combination of human and animal cells;
- placing a human embryo in an animal or an animal embryo in a human for any period of gestation;
- placing a human embryo in the body of a human, other than in a woman's reproductive tract;
- importing or exporting a prohibited embryo from any of the previous categories.

It is also makes it an offence to receive, give or offer valuable consideration to another person for the supply of a human egg, human sperm or a human embryo.

ENSURING COMPLIANCE WITH THE PROVISIONS

The Commonwealth Research Involving Human Embryos Act enables the NHMRC to appoint inspectors to monitor the activities of laboratories and ensure prohibitions are enforced. The Bill enables those same inspectors to inspect premises covered by the State or Commonwealth legislation.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

The measure will be brought into operation by proclamation.

Clause 3: Interpretation

This clause sets out a number of definitions for words and phrases used in the Bill. These definitions determine the meaning that is to be attributed to certain words or phrases whenever they are used in the Bill or regulations. Key definitions, which are essential to defining the scope of the legislation and describing how it will be administered, include the following:

'accredited ART centre' is defined to mean a person or body accredited to carry out assisted reproductive technology by—

(a) the Reproductive Technology Accreditation Committee of the Fertility Society of Australia; or

(b) if the regulations prescribed another body or other bodies in addition to, or instead of, the body mentioned in paragraph *(a)*—that other body or any of those other bodies, as the case requires.

'excess ART embryo' means a human embryo where—

(a) the embryo was created by assisted reproductive technology for use in the treatment of a woman; and

(b) the embryo is excess to the needs of the woman for whom it was created and any spouse (at the time the embryo was created) of that woman.

The determination with respect to being excess to the needs of the woman and any spouse of the woman (at the time the relevant embryo was created) is provided for under clause 3(5).

'human embryo' which is defined to mean a live embryo that has a human genome or an altered human genome, that has been developing for less than 8 weeks since:

- the appearance of 2 pro-nuclei; or
- the initiation of development by other means.

This definition is intended to include:

a. *a human embryo created by the fertilisation of a human egg by human sperm.*

The Bill relies upon the appearance of 2 pro-nuclei to establish the existence of a human embryo that has been created by the fertilisation of a human egg by human sperm. The appearance of the pro-nuclei indicates that the nuclei from the sperm and the egg are aligning prior to possible fusion. For the purposes of this legislation, the 8 weeks of development is taken to start with the appearance of 2 pro-nuclei. The legislation does not rely on defining when fertilisation commences or is complete.

b. *a human embryo that has had its development initiated by any other means*.

It is intended that the definition includes the following types of embryos:

- a human egg that has had its nucleus replaced by the nucleus of a somatic cell (i.e. a cell from the body) by the process referred to as somatic cell nuclear transfer (SCNT); and
- a parthenogenetic human embryo. It is possible that a human egg could be mechanically or chemically stimulated to undergo spontaneous activation and exhibit some of the characteristics of a fertilised human egg. A parthenogenetic human embryo has the capacity to continue its development in a similar manner to a human embryo created by fertilisation.

It should be noted that the procedures outlined above are provided as examples only as there may be other ways that the development of an embryo may be initiated. For the purposes of the legislation the 8 weeks of development is taken to start with the initiation of development by other means.

Clause 3(3) clarifies that for the purposes of the definition of human embryo, in working out the length of period of development of a human embryo, any period when development of the embryo is suspended (for example, while it is frozen) is not included. For example, if an embryo is placed in storage 2 days after fertilisation and is held in storage for 10 weeks, it is still considered to be a 2 day embryo in terms of its development.

'human embryo clone', which is defined to mean a human embryo that is a genetic copy of another living or dead human, but does not include a human embryo created by the fertilisation of a human egg by human sperm.

The reference to a human embryo clone not including a human embryo created by the fertilisation of a human egg by human sperm is to ensure that identical twins (or other identical multiples) that occur through the spontaneous division of an embryo (created by fertilisation) into two (or more) identical embryos are not defined as human embryo clones.

Clause 3(2) clarifies that in order to establish that a human embryo clone is a genetic copy of a living or dead human, it is sufficient to establish that a copy has been made of the genes in the nuclei of the cells of another living or dead human. Further, the copy of the genes does not have to be an identical genetic copy. This means that the human embryo clone does not have to be genetically identical to the original human. This allows for:

- the presence of DNA outside the nucleus (i.e. mitochondrial DNA) that is not identical to the living or dead human from which the nuclear DNA was taken, as would occur in an embryo created using the somatic cell nuclear transfer technique;
- spontaneous changes to the nuclear DNA that may occur during the development of a human embryo clone; and
- the deliberate alteration of the DNA so that the intention is to produce a clone of another human, but where the nuclear DNA could no longer be considered an identical copy of the original DNA. This point is also addressed within the definition of human embryo, which includes one that has an altered human genome. As such, an embryo that is a clone of another human and has had its genome deliberately altered will still be considered a human embryo and therefore, as its original genome was copied, a human embryo clone.

Clause 3(4) clarifies that for the purposes of the definition of human embryo clone, a human embryo created by the technological process known as embryo splitting is taken not to be created by a process of fertilisation of a human egg by human sperm and is therefore considered to be a human embryo clone. Embryo splitting is a technique that may be carried out on an embryo created by in vitro fertilisation, whereby micro-surgical techniques are used to divide an embryo in the early stages of development to produce two or more identical embryos.

Clause 4: Nationally consistent scheme

This clause specifically states that it is intended that the principal objects of the measure be achieved through a regulatory framework and a range of offences that operate in conjunction with, and in a manner that is consistent with, corresponding Commonwealth and State laws.

Clause 5: Offence—creating a human embryo clone

It will be an offence to intentionally create a human clone.

Clause 6: Offence—placing a human embryo clone in the human body or the body of an animal

It will be an offence to place a human clone in the body of a human or a body of an animal.

Clause 7: Offence—importing or exporting a human embryo clone

This clause makes it an offence to intentionally import a human embryo clone into South Australia or intentionally export a human embryo clone from South Australia. This ensures that all avenues for obtaining a human embryo clone in the State are covered, whilst ensuring that a person cannot export out of the State a human embryo clone that has been illegally created or obtained.

Clause 8: No defence that human embryo clone could not survive

This clause provides that any human embryo clone that is intentionally created, implanted, imported or exported does not have to have the capacity to survive to the point of live birth in order for an offence to be established under clauses 5, 6 or 7.

Clause 9: Offence—creating a human embryo other than by fertilisation, or developing such an embryo

The effect of this clause is that a human embryo intentionally created through any process must only be created by the fertilisation of a human egg by human sperm. As such, an embryo must not be created by embryo splitting, by parthenogenesis, by somatic cell nuclear transfer or by any other technique that does not involve fertilisation of a human egg by human sperm.

It is also an offence to develop a human embryo created by a means other than the fertilisation of a human egg by human sperm. This ensures that if such an embryo was imported into the State it could not be developed by the person who imported it or any other person without an offence being committed.

Clause 10: Offence—creating a human embryo for a purpose other than achieving pregnancy in a woman

The effect of this clause is that a person can only create a human embryo outside the body of a woman if it is intended, at the time of creation, that the embryo could be implanted in an attempt to achieve pregnancy in a particular woman.

This clause is not intended to prohibit certain uses of human embryos that are carried out as part of attempting to achieve pregnancy in a woman in ART clinical practice, such as carrying out diagnostic procedures or undertaking therapeutic procedures on the embryo.

Furthermore, it is not intended that this clause—

- restrict the number of embryos that may be created for the purposes of achieving pregnancy in a particular woman. The number of embryos created for the reproductive treatment of a particular woman needs to be determined on a case by case basis as a part of routine ART clinical practice; or
- prevent the circumstance whereby a human embryo created by an ART clinic, originally intended for implantation into a woman, may be found to not be suitable for implantation, or may at some point not be required by the woman for whom it was originally created. In these situations it is possible that such embryos could become excess ART embryos and at that point they may be used for purposes other than to attempt to achieve pregnancy in a woman subject to the system of regulatory oversight described in Part 2 of the Bill.

Clause 11: Offence—creating or developing a human embryo containing genetic material provided by more than 2 persons

This clause makes it an offence to intentionally create a human embryo containing genetic material provided by more than 2 people. It is also an offence to develop a human embryo containing genetic material provided by more than 2 people.

Clause 12: Offence—developing a human embryo outside the body of a woman for more than 14 days

This clause requires that a human embryo created outside the body of a woman must not be allowed to develop beyond 14 days. This does not include any time that the embryo's development is suspended whilst in storage (for example while the embryo is frozen).

In practice, this means that human embryos created by assisted reproductive technology must be implanted, stored or allowed to die (if unsuitable for implantation or excess to the needs of the couple for whom the embryo was created) before the 14th day of their development. It is standard ART clinical practice for embryos to be implanted when they have reached between three and seven days of development.

Clause 13: Offence—using precursor cells from a human embryo or a human foetus to create a human embryo, or developing such an embryo

This clause prevents the creation of a human embryo with precursor cells taken from another human embryo or a human foetus. It is also an offence to develop a human embryo created by precursor cells taken from an embryo or foetus.

The purpose of this clause is to prevent individuals from obtaining precursor cells and using these cells in an attempt to develop a human embryo whether for reproductive or any other purposes. The reasons for this practice being prohibited is that if precursor cells were to be used in such an attempt then children could potentially be born (using ova and/or sperm derived from a foetus or embryo) never having had a living genetic parent.

Clause 14: Offence—heritable alterations to genome

This clause prohibits any manipulation of a human genome that is intended to be heritable, that is, able to be passed on to subsequent generations of humans. This clause bans what is commonly referred to as germ line gene therapy. In germ line gene therapy, changes would be made to the genome of egg or sperm cells, or even to the cells of the early embryo. The genetic modification would then be passed on to any offspring born to the person whose cell was genetically modified and also to subsequent generations.

Clause 15: Offence—collecting a viable human embryo from the body of a woman

This clause prevents the removal of viable human embryos from the body of a woman after fertilisation has taken place *in vivo*, a practice sometimes referred to as embryo flushing.

Clause 16: Offence—creating a chimeric or hybrid embryo

This clause makes it an offence to intentionally create a chimeric embryo or to intentionally create a hybrid embryo. Under the definitions included in clause 3, chimeric embryo and hybrid embryo have the following meanings:

'chimeric embryo' means—

(a) a human embryo into which a cell, or any component part of a cell, of an animal has been introduced; or

(b) a thing declared by the regulations to be a chimeric embryo;

'hybrid embryo' means—

(a) an embryo created by the fertilisation of a human egg by animal sperm; or

(b) an embryo created by the fertilisation of an animal egg by human sperm; or

(c) a human egg into which the nucleus of an animal cell has been introduced; or

(d) an animal egg into which the nucleus of a human cell has been introduced; or

(e) a thing declared by the regulations to be a hybrid embryo.

It is not intended that this clause prohibit the creation of transgenic animals. Transgenic animals are created through the insertion of one or more foreign genes (including human genes) into an animal embryo. It is important to note that transgenic animals are regulated under the *Gene Technology Act 2001* as a genetically modified organism. Before anyone could genetically modify an animal embryo, a licence must be sought from the Gene Technology Regulator. The Gene Technology Regulator would conduct a comprehensive risk assessment and may seek advice on the ethical issues posed by this practice from the Gene Technology Ethics Committee. Any such work would also need to meet the requirements of an Animal Welfare Committee (in accordance with NHMRC Guidelines).

Clause 17: Offence—placing of an embryo

This clause prevents the placement of—

- a human embryo in an animal;
- a human embryo into the body of a human, including a man or any part of a woman's body, other than the female reproductive tract;
- an animal embryo in a human, for any period of gestation.

Clause 18: Offence—importing, exporting or placing a prohibited embryo

This clause prevents certain additional dealings and procedures associated with 'prohibited embryos', as defined by subclause (4).

Clause 19: Offence—commercial trading in human eggs, human sperm or human embryos

This clause prevents the commercial trading of human eggs, sperm and embryos. Both parties that are involved in commercial trading of such material would be committing an offence (for example, the person who sells the egg, sperm or embryo and the person who purchases the egg, sperm or embryo). The only consideration that may be given in relation to the supply of gametes or embryos is reimbursement of reasonable expenses related to that supply, including expenses incurred for the collection, storage and transport where relevant. This means if, for example, semen is transferred from one clinic to another, the second clinic could reimburse the first clinic for the costs of storage and transport of the semen. A further example is where a woman who is to be treated with donated eggs could pay for the cost of the egg retrieval from another woman.

Reasonable expenses in relation to the supply of a human embryo, where that embryo is donated to another couple, do not include any expenses incurred by the person or couple (for whom the embryo was originally created), before the embryo was determined to be excess to their needs. That is, if a person has embryos that are excess to their needs and they wish to donate the embryos to other people, they cannot have the costs of their IVF treatment reimbursed by the person receiving the donated embryos.

Clause 20: Powers of inspectors

The inspectors under this measure are to be inspectors who have been appointed under a related Commonwealth law.

This clause sets out the powers of an inspector to enter and search premises. An inspector will not be able to enter premises under this clause unless—

(a) the occupier of the premises has consented to the entry; or

(b) activities being carried out on the premises are covered by a licence and the entry is at a reasonable time; or

(c) the entry is under the authority of a warrant; or

(d) the inspector considers on reasonable grounds that the circumstances require immediate entry.

Clause 21: Announcement before entry

An inspector must give the occupier of premises a reasonable opportunity to consent to entry to the premises before exercising a statutory power to gain entry.

Clause 22: Inspector must produce identity card on request

This clause provides that an inspector cannot exercise any of the powers under this Part in relation to premises unless he or she produces his or her identity card upon being requested to do so by the occupier of those premises.

Clause 23: Compensation for damage

This clause provides that if damage is caused to equipment or other facilities as a result of it being operated by an inspector and the damage resulted from insufficient care being exercised by the inspector in operating the equipment, compensation is payable to the owner under the terms of the provision.

Clause 24: Return of seized things

This clause sets out a scheme for dealing with any item that has been seized by an inspector under this Part.

Clause 25: Related matters

It will be an offence to hinder or obstruct an inspector in the exercise of statutory powers under this Part. A person will not be required to answer a question if to do so might tend to incriminate the person or make the person liable to a penalty.

Clause 26: Commonwealth/State arrangements

This clause is intended to facilitate the interaction between this measure and related Commonwealth Acts.

Clause 27: Delegations

This provision will allow the Minister to delegate functions and powers under the measure.

Clause 28: False or misleading information

It will be a specific offence to provide false or misleading material in any information under the measure.

Clause 29: Liability of directors

This clause relates to the responsibility of directors of corporations for breaches of the Act.

Clause 30: Evidential burden in relation to exceptions etc

This clause is intended to ensure consistency between this measure and Commonwealth law with respect to certain evidential burdens.

Clause 31: Regulations

The Governor will be able to make regulations for the purposes of the measure.

The Hon. W.A. MATTHEW secured the adjournment of the debate.

RESEARCH INVOLVING HUMAN EMBRYOS BILL

The Hon. L. STEVENS (Minister for Health) obtained leave and introduced a bill for an act to regulate certain activities involving the use of human embryos and other

related activities; to amend the Reproductive Technology Act 1988; and for other purposes. Read a first time.

The Hon. L. STEVENS: 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 Research Involving Human Embryos Bill reflects the provisions and definitions of the equivalent Commonwealth Act.

It complements the Prohibition of Human Cloning Bill to form South Australia's part of the national scheme for regulating the use of embryos. It reflects provisions in the Commonwealth *Research Involving Human Embryos Act.*

This Bill proposes to amend the *Reproductive Technology Act 1988* to remove the section relating
to embryo research.

It establishes a separate Act to regulate the use of embryos more broadly and to bring South Australia into the national embryo licensing scheme.

This Bill takes a very conservative approach.

It places the same strict limitations on embryo research as the Commonwealth scheme. It allows only certain embryos to be used for approved applications under specified conditions.

It empowers the couples for whom the embryos were created to determine to what use their excess embryos may be put.

The Bill is drafted to regulate all embryo use other than for the treatment of patients—clinical treatment (eg for infertile couples) will remain wholly under the *Reproductive Technology Act 1988.*

It requires a licence from the NHMRC for the use of human embryos that are determined to be excess to treatment to conduct research, teaching and training, audit, quality control and commercial enterprise.

The Bill has been drafted to require a licence under the State legislation equivalent to that under the Commonwealth Act.

The Bill covers all embryo research, rather than just embryonic stem cell research. Embryos can be used for other types of research related to infertility as well as for creating embryonic stem cell lines for treating diseases and injuries. The Bill regulates the creation of embryonic stem cells from embryos but not what is done with the stem cells once they are created. The Legislative scheme prohibits the creation of embryos for research which means that embryonic stem cell lines can only be created from embryos that are excess to reproductive technology treatment.

It describes certain uses of embryos associated with clinical treatment that do not require a licence.

It allows diagnostic testing of embryos to help determine for a couple why their treatment has been unsuccessful and what different options can be offered to increase the likelihood of a pregnancy.

Although other states have been able to offer such support to infertile couples, this has not been available for South Australian couples under existing legislation.

A sunset provision is included to reflect the fact that the restriction on use of embryos after 5 April 2002 will be lifted in 3 years or maybe earlier if COAG so recommends.

This was endorsed as part of the COAG Agreement to address concerns that a ban on the creation of embryos for research might result in more embryos being created for treatment of infertile couples, with the intent of producing a greater pool of excess embryos that could be accessed for research.

The NHMRC has been asked to investigate this and to assess the number of embryos actually available for research in Australia (which has been misquoted as 70 000 but is likely to be less than one tenth of that number).

THE NHMRC LICENSING SCHEME

A licence from the NHMRC will be a dual licence to use excess embryos under both Commonwealth and State legislation. This is similar to the scheme in the *Gene Technology Act 2001*.

The Commonwealth *Research Involving Human Embryos Act 2003* contains a 6 month delayed commencement period before the NHMRC licensing scheme becomes operational.

The Act received Royal Assent on 19 December 2002, so the NHMRC licensing scheme will operate from 19 June 2003.

The NHMRC Embryo Licensing Committee will only issue a licence if it is satisfied—

- that it was donated with proper consent;
- that there is compliance with any restrictions on such consent; and
- that the embryo was created before 5 April 2002.

The proposed activity or project must have been assessed and approved by a local Human Ethics Research Committee in accordance with NHMRC guidelines.

The NHMRC Licensing Committee will also take into account:

- the local Human Ethics Research Committee assessment of the project;
- the requirement to restrict the number of excess embryos to that likely to be necessary for the project; and
- the likelihood of significant advance in knowledge, treatment technologies or other applications from the proposed project.

If a licence is issued, the NHMRC Licensing Committee will notify the applicant, the Human Ethics Research Committee that assessed and approved the project and the relevant State body, which in South Australia will be the SA Council on Reproductive Technology through its Secretariat in the Department of Human Services.

The period of the licence will be determined on a case-by-case basis.

The NHMRC Licensing Committee will be able to vary a licence if it believes on reasonable grounds that this is necessary or desirable.

Once the Commonwealth licensing scheme becomes operational, South Australian scientists will be able to apply for a licence to conduct research on embryos, or use embryos for training or quality audits.

Some of the activities for which a licence may be approved could be detrimental to the embryos.

Because State laws that are inconsistent with Commonwealth laws are invalid to the extent of the inconsistency, in South Australia in July 2003, a laboratory or clinic will be able to apply for a licence from the NHMRC to use human embryos for purposes that are currently prohibited under the South Australian Reproductive Technology Act.

NHMRC LICENSING COMMITTEE

The Commonwealth provisions that deal with the establishment of the NHMRC Licensing Committee do not need to be reflected in the state legislation, but provisions related to the Committee's operation have been incorporated.

The Committee is currently being established with input from the States.

It is expected to be in place in time to approve research licences in June 2003.

The Committee members will be appointed by the Commonwealth Minister for Health and will include a member of Australian Health Ethics Committee of the NHMRC and members with expertise in the following specific areas:

- research ethics;
- relevant area of research;
- assisted reproductive technology;
- a relevant area of law;
- consumer health issues relating to disability and disease;
- consumer issues relating to assisted reproductive technology;
- the regulation of assisted reproductive technology;
- embryology.

THE ROLE OF HUMAN RESEARCH ETHICS COMMITTEES

Few Human Research Ethics Committees (HRECs) in Australia deal with proposals for research involving human embryos or other ART related research.

HRECs assess research proposals against legislative requirements and guidelines prepared by the NHMRC.

The NHMRC Australian Health Ethics Committee has suggested that HRECs dealing with research proposals involving human embryos are provided with access to independent technical advice and detailed guidelines about matters that must be taken into account when considering a proposal involving human embryos.

Reporting requirements of HRECs are being strengthened to improve accountability and transparency.

The Australian Health Ethics Committee has also recommended that:

- membership of a HREC should include relevant expertise to allow a thorough determination of the value of the proposed research;
- the HREC must be satisfied that the research proponents have the competence to complete the proposed research;
- the HREC must be satisfied that the embryos in question are no longer needed for implantation.

CONSENT

There are very strict criteria to be met before a research licence will be issued by the NHMRC Licensing Committee including evidence of proper informed consent by those donating the embryos and their partners.

These "embryo parents" can determine whether to donate their excess embryos to research (or to other infertile couples or to discard them); and can determine the type of research to which they are prepared to donate them and under what conditions.

The researchers are required to account for every embryo so licensed and to abide by conditions set by donors.

In South Australia at present most embryos donated to research are donated for research into infertility problems and treatments.

It is likely that most embryos in Australia will be used for infertility research, rather than stem cell research. Infertility research usually requires more embryos to be used to achieve valid results whereas many stem cells can be created from a single embryo.

INSPECTORS AND MONITORING

The Bill enables inspectors appointed under the Commonwealth Act to inspect premises covered by the State or Commonwealth legislation.

REPORTING REQUIREMENTS

Reporting requirements mirror those in the Commonwealth legislation.

Most non-infertility research using embryos, such as embryonic stem cell research, is expected to be conducted as part of national collaborations. Therefore, tabling of regular national reports provided by the NHMRC is considered most useful.

The Parliament will also continue to receive the annual report of the SA Council on Reproductive Technology which will report broadly on embryo research and other reproductive technology research conducted in South Australia.

EMBRYO RESEARCH NOT COVERED BY THE NHMRC LICENSING SCHEME

The Commonwealth scheme does not cover use of human sperm or ova in research, nor clinical research (eg clinical trials) which do not use excess human embryos as the embryos are destined to be implanted.

In other States, particularly where there is not an equivalent body to the SA Council on Reproductive Technology, such research requires only local Human Ethics Research Committee approval.

It is proposed that clinical research that leaves the embryo in an implantable condition and research using gametes do not need to be subject to a separate state licensing scheme.

However, it is considered essential that the Council continues to monitor research using embryos and gametes conducted in South Australia, including clinical trials, and so it is intended that regulations will require HRECs to report to the Council on all the research proposals that they consider, approve or refer to the NHMRC Licensing Committee for a licence.

It is envisaged that this information would be included in the Council's annual report to Parliament.

Medical research into causes and effects of infertility that does not use embryos and social research into the impact of assisted reproductive technology on families are not impacted by the amendment to the *Reproductive Technology Act 1988*.

Such research is not currently licensed but is and will continue to be monitored by the Council.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

The measure will be brought into operation by proclamation.

Clause 3: Interpretation

This clause sets out a number of definitions for words and phrases used in the Bill. These definitions determine the meaning that is to be attributed to certain words or phrases whenever they are used in the Bill or regulations. Key definitions, which are essential to defining the scope of the legislation and describing how it will be administered, include the following:

"accredited ART centre" is defined to mean a person or body accredited to carry out assisted reproductive technology by—

(a) the Reproductive Technology Accreditation Committee of the Fertility Society of Australia; or

(b) if the regulations prescribed another body or other bodies in addition to, or instead of, the body mentioned in paragraph *(a)*—that other body or any of those other bodies, as the case requires.

"excess ART embryo" means a human embryo where—

(a) the embryo was created by assisted reproductive technology for use in the treatment of a woman; and

(b) the embryo is excess to the needs of the woman for whom it was created and any spouse (at the time the embryo was created) of that woman.

The determination with respect to being excess to the needs of the woman and any spouse of the woman (at the time the relevant embryo was created) is provided for under clause 3(5).

"human embryo" which is defined to mean a live embryo that has a human genome or an altered human genome, that has been developing for less than 8 weeks since:

- the appearance of 2 pro-nuclei; or
- the initiation of development by other means.

This definition is intended to include:

a. *a human embryo created by the fertilisation of a human egg by human sperm.*

The Bill relies upon the appearance of 2 pro-nuclei to establish the existence of a human embryo that has been created by the fertilisation of a human egg by human sperm. The appearance of the pro-nuclei indicates that the nuclei from the sperm and the egg are aligning prior to possible fusion. For the purposes of this legislation, the 8 weeks of development is taken to start with the appearance of 2 pro-nuclei. The legislation does not rely on defining when fertilisation commences or is complete.

b. *a human embryo that has had its development initiated by any other means.*

It is intended that the definition includes the following types of embryos:

- a human egg that has had its nucleus replaced by the nucleus of a somatic cell (i.e. a cell from the body) by the process referred to as somatic cell nuclear transfer (SCNT); and
- a parthenogenetic human embryo. It is possible that a human egg could be mechanically or chemically stimulated to undergo spontaneous activation and exhibit some of the characteristics of a fertilised human egg. A parthenogenetic human embryo has the capacity to continue its development in a similar manner to a human embryo created by fertilisation.

It should be noted that the procedures outlined above are provided as examples only as there may be other ways that the development of an embryo may be initiated. For the purposes of the legislation the 8 weeks of development is taken to start with the initiation of development by other means.

Clause 3(2) clarifies that for the purposes of the definition of human embryo, in working out the length of period of development of a human embryo, any period when development of the embryo is suspended (for example, while it is frozen) is not included. For example, if an embryo is placed in storage 2 days after fertilisation and is held in storage for 10 weeks, it is still considered to be a 2 day embryo in terms of its development.

Clause 4: Nationally consistent scheme

This clause specifically states that it is intended that the principal objects of the measure be achieved through a regulatory framework and a range of offences that operate in conjunction with, and in a manner that is consistent with, corresponding Commonwealth and State laws.

Clause 5: Offence—use of excess ART embryo

This clause essentially describes the scope of the regulatory scheme for excess ART embryos by describing the uses of excess ART embryos that require a licence and those that do not.

In summary, all uses of an excess ART embryo are required to be licensed by the NHMRC Licensing Committee unless such uses are exempt uses in accordance with subclause (2).

Subclause (2) provides that the following uses of an excess ART embryo are exempt (and therefore do not require licensing):

- storage of an excess ART embryo;
- removing an excess ART embryo from storage;
- transport of an excess ART embryo;
- observation of an excess ART embryo (including taking a photograph of the embryo or taking a recording of the embryo from which a visual image can be produced);
- allowing the excess ART embryo to die (succumb);
- diagnostic investigations carried out at an appropriate facility in limited circumstances using excess ART embryos that are unsuitable for implantation;

- donating the excess ART embryo to another woman for the purpose of achieving pregnancy in that other woman; and
- any other use prescribed in the regulations.

Clause 6: Offence—use of embryo that is not an excess ART embryo

This clause provides that it is an offence to intentionally use, outside the body of a woman, a non-excess ART embryo unless the use is for a purpose related to the assisted reproductive technology treatment of a woman carried out by an accredited ART clinic under a South Australian clinical practice licence.

Clause 7: Offence—breaching a licence condition

This clause provides that a person is guilty of an offence if they intentionally do something, or fail to do something, that they know will result in a breach of a condition of licence or that they do so being reckless as to whether or not the action or omission will contravene a condition of licence.

Clause 8: Conferral of functions on Committee

This clause confers functions on the NHMRC Licensing Committee. In essence, the NHMRC Licensing Committee will be tasked with—

- considering licence applications;
- refusing licences or granting licences including subject to conditions;
- notifying relevant people of the Committee's decision regarding the licence application including the applicant, the relevant Human Research Ethics Committee (HREC) and other appropriate bodies;
- varying, suspending or cancelling licences, should this be necessary;
- establishing and maintaining a publicly available database containing information about work involving excess ART embryos that has been licensed by the Committee;
- providing information about the Committee's functions for inclusion in the NHMRC annual report; and
- providing advice to applicants on the licensing requirements and the preparation of applications.

Clause 9: Powers of Committee

This clause provides that the NHMRC Licensing Committee has power to do all things needed to be done in connection with the performance of the NHMRC Licensing Committee's functions.

Clause 10: Person may apply for licence

This clause provides that a person may apply to the NHMRC Licensing Committee for a licence. Such an application must be in accordance with the application requirements of the NHMRC Licensing Committee. It is proposed that the NHMRC Licensing Committee will issue application forms and detailed explanatory material about the Committee's expectations with respect to the information that should be included in any application. The application must also be accompanied by an application fee if such an application fee is prescribed in the regulations.

Clause 11: Determination of application by Committee

This clause describes the matters that must be considered by the NHMRC Licensing Committee when deciding whether or not to issue a licence. The clause sets out certain things that the NHMRC Licensing Committee must be satisfied of before they issue a licence and other issues that the NHMRC Licensing Committee must have regard to when deciding whether or not to grant a licence.

Subclause (3) provides that the NHMRC Licensing Committee must not issue the licence unless it is satisfied that—

- appropriate protocols are in place to enable proper consent to be obtained before an excess ART embryo is used; and
- if the proposed use of the excess ART embryo may damage or destroy the embryo, that appropriate protocols are in place to ensure that the excess ART embryos used in the project (should the licence be approved) have been created before 5 April 2002; and
- the proposed project has been considered and assessed by a Human Research Ethics Committee (HREC) that is constituted in accordance with, and acting in compliance with, the *National Statement on Ethical Conduct in Research Involving Humans* (1999) issued by the NHMRC.

Subclause (4) provides that in deciding whether to issue a licence, the NHMRC Licensing Committee must have regard to the following:

- the number of excess ART embryos likely to be necessary to achieve the goals of the activity or project proposed in the application; and
- the likelihood of significant advance in knowledge, or improvement in technologies for treatment, as a result of the use of excess ART embryos proposed in the application which could not reasonably be achieved by other means; and
- any relevant guidelines, or parts of guidelines, issued by the NHMRC and prescribed under the corresponding Commonwealth Act; and
- the HREC assessment of the application; and
- such additional matters (if any) as are prescribed by the regulations.

Clause 12: Notification of decision

This clause requires the NHMRC Licensing Committee to notify its decision on an application to the applicant, the HREC that considered the application, and the other prescribed persons or bodies.

Clause 13: Period of licence

This clause provides that a licence comes into force on the day specified in the licence or if no such date is specified, the day that the licence is issued. The licence ceases operation on the day specified in the licence unless it is suspended, revoked or surrendered before that day.

Subclause (2) clarifies that a licence is not in force throughout any period of suspension.

Clause 14: Licence is subject to conditions

This clause describes the conditions to which all licences issued by the NHMRC Licensing Committee are subject and enables the NHMRC Licensing Committee to impose any other conditions that it considers necessary.

Clause 15: Variation of licence

This clause enables the NHMRC Licensing Committee to vary a licence. A variation may be made where the NHMRC Licensing Committee believes on reasonable grounds that it is necessary or desirable to do so.

Clause 16: Suspension or revocation of licence

This clause enables the NHMRC Licensing Committee to suspend or revoke a licence that has been issued if they believe, on reasonable grounds, that a condition of the licence has been breached. This is a very important provision because it enables the NHMRC Licensing Committee to take immediate action in the event of apparent non-compliance. By suspending or revoking the licence the work can no longer continue.

Clause 17: Surrender of licence

A licence holder may surrender a licence.

Clause 18: Notification of variation, suspension or revocation of licence

This clause provides that if the NHMRC Licensing Committee varies, suspends or revokes a licence the Committee must notify the licence holder and other relevant bodies.

Clause 19: NHMRC Committee to make certain information publicly available

This clause provides that the NHMRC Licensing Committee must establish and maintain a comprehensive, publicly available database containing information about licences that have been issued by the NHMRC Licensing Committee.

Subclause (1) provides that the database must include the following information in relation to each licence:

(a) the name of the person to whom the licence was issued;
(b) the nature of the uses of the embryos authorised by the licence. For example, the record would state whether the embryos are proposed to be used for the derivation of stem cells, for use for testing culture medium, for training of technicians etc;
(c) the conditions of licence;
(d) the number of embryos proposed to be used. At the time that a licence is granted, one of the conditions would describe the maximum number of embryos permitted to be used as part of the project. Another condition of licence would describe reporting requirements including in relation to how many embryos were actually used and when they were used. It has been proposed that the NHMRC Licensing Committee will update the database to reflect the number of embryos actually used in a project;
(e) the date on which the licence was issued;
(f) the period of the licence.

Clause 20: Confidential commercial information may only be disclosed in certain circumstances

This clause is intended to protect, from public disclosure, certain information that is legitimately confidential commercial information.

Clause 21: Interpretation

This clause sets out definitions that are relevant to the scheme for the review of licensing decisions under the measure.

An "eligible person" in relation to a decision of the NHMRC Licensing Committee means—

- a licence applicant—in relation to a decision by the NHMRC Licensing Committee not to issue a licence; and
- the licence holder in relation to—
  - a decision by the NHMRC Licensing Committee relating to the period of a licence; or
  - a condition of licence imposed by the NHMRC Licensing Committee; or
  - a decision by the NHMRC Licensing Committee to vary, refuse to vary, suspend or revoke a licence.

A "reviewable decision" is any of the following decisions of the NHMRC Licensing Committee:

- a decision not to issue a licence; or
- a decision in respect of the period throughout which the licence is to be in force; or
- a decision to specify a licence condition; or
- a decision to vary or refuse to vary a licence; or
- a decision to suspend or revoke a licence.

Clause 22: Review of decisions

An eligible person will be able to apply to the Administrative and Disciplinary Division of the District Court for review of a reviewable decision. An application to the District Court will need to be made within 28 days after the making of the relevant decision and the proceedings may be heard by a Judge sitting with assessors if assessors have been appointed and the Judge considers that the Court should be so constituted.

Clause 23: Powers of inspectors

The inspectors under this measure are to be inspectors who have been appointed under a related Commonwealth law.

This clause sets out the powers of an inspector to enter and search premises. An inspector will not be able to enter premises under this clause unless—

(a) the occupier of the premises has consented to the entry; or

(b) activities being carried out on the premises are covered by a licence and the entry is at a reasonable time; or

(c) the entry is under the authority of a warrant; or

(d) the inspector considers on reasonable grounds that the circumstances require immediate entry.

Clause 24: Announcement before entry

An inspector must give the occupier of premises a reasonable opportunity to consent to entry to the premises before exercising a statutory power to gain entry.

Clause 25: Inspector must produce identity card on request

This clause provides that an inspector cannot exercise any of the powers under this Part in relation to premises unless he or she produces his or her identity card upon being requested to do so by the occupier of those premises.

Clause 26: Compensation for damage

This clause provides that if damage is caused to equipment or other facilities as a result of it being operated by an inspector and the damage resulted from insufficient care being exercised by the inspector in operating the equipment, compensation is payable to the owner under the terms of the provision.

Clause 27: Return of seized things

This clause sets out a scheme for dealing with any item that has been seized by an inspector under this Part.

Clause 28: Related matters

It will be an offence to hinder or obstruct an inspector in the exercise of statutory powers under this Part. A person will not be required to answer a question if to do so might tend to incriminate the person or make the person liable to a penalty.

Clause 29: Commonwealth/State arrangements

This clause is intended to facilitate the interaction between this measure and related Commonwealth Acts.

Clause 30: Delegations

This provision will allow the Minister and the NHMRC Licensing Committee to delegate functions and powers under the measure.

Clause 31: Annual reports

Reports of the NHMRC Committee that are relevant to this measure will be provided to the Minister and tabled in Parliament.

Clause 32: False or misleading information

It will be a specific offence to provide false or misleading material in any information under the measure.

Clause 33: Liability of directors

This clause relates to the responsibility of directors of corporations for breaches of the Act.

Clause 34: Evidential burden in relation to exceptions etc

This clause is intended to ensure consistency between this measure and Commonwealth law with respect to certain evidential burdens.

Clause 35: Regulations

The Governor will be able to make regulations for the purposes of the measure.

Clause 36: Sunset provision

This clause gives effect to the Council of Australian Governments' decision that the regulation restricting the use of excess ART embryos created after 5 April 2002 will cease to have effect on 5 April 2005, unless an earlier time is agreed by the Council of Australian Governments.

Schedule

Related amendments must be made to the *Reproductive Technology Act 1988*. It is also necessary to ensure the immediate operation of the first set of regulations under the new measure to ensure that there is no 'hiatus' in the regulatory scheme.

The Hon. W.A. MATTHEW secured the adjournment of the debate.

PASSENGER TRANSPORT (DISSOLUTION OF PASSENGER TRANSPORT BOARD) AMENDMENT BILL

The Hon. M.J. WRIGHT (Minister for Transport) obtained leave and introduced a bill for an act to amend the Passenger Transport Act 1994 and to make related amendments to the Road Traffic Act 1961 and the Superannuation Act 1988. 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 further step in the re-casting of transport policy-making and implementation within the South Australian Government.

Before elaborating, I wish to place on record the Government's acknowledgment of the achievements of the Passenger Transport Board (PTB) and the staff supporting it. The PTB was established for several purposes, the most important being the letting and administration of contracts for supply of metropolitan Adelaide bus services.

Notwithstanding this Government's opposition to privatisation, I freely acknowledge that the administration of the process was carried out to the highest standards of professionalism and probity. I therefore place on record the Government's appreciation of the Board, the staff and my predecessor as Minister, the Honourable Diana Laidlaw for their efforts in this respect and more generally in respect of the many facets of providing public transport.

There are two principal reasons for now seeking to abolish the Board.

The first is investment. Public transport needs to be properly considered when capital investment decisions are being made. We must face up to the fact that Adelaide has by far the most run-down public transport infrastructure of all the mainland capitals.

There are various reasons for this but it has not helped to have responsibility for preparing and advancing investment projects fragmented between Transport SA, the PTB and TransAdelaide.

As a demonstration of its commitment to integrating transport, the Government will release, by March 2003, a draft Integrated Transport Plan for South Australia, the first such plan since 1968. Public transport and its needs have to be able to participate in the debate over the ongoing development of that Plan from an equal position with all of transport's other needs.

To that end, an individual agency will be created within the Department of Transport and Urban Planning for public transport. Separately, the former Transport SA (TSA) has been restructured into two agencies—one focusing on policy and planning and the other on service delivery. The Office of Public Transport will work equally with these two agencies, but particularly closely with the Transport Planning agency. That agency is required to address all

investment proposals in terms of their impact upon the whole transport network as well as broader considerations of land use planning.

The second reason for seeking the abolition of the Board is responsiveness. One of the costs of having legal separation of administrative functions from the Minister is that people with grievances can feel removed from the democratic process. In Opposition, feedback such as this was relatively common in relation to the PTB. It does not necessarily reflect poorly on the PTB but the feedback was a perception resulting from the use of a statutory authority to distance the Minister from these matters.

On becoming accountable to the Minister through the Department, the Office of Public Transport, like the other transport agencies, will develop a charter of responsiveness which will provide practical and measurable standards of responsiveness.

That is not to say it is appropriate for the Minister to be held directly accountable for all functions. A series of delegations will be put in place within the Department to provide for transparent and, where necessary, arms length decision-making.

The most obvious requirement for this is disciplinary matters. The Bill provides that the Passenger Transport Standards Committee will be established under the legislation to exercise disciplinary powers under the Act. It is not appropriate to vest such quasi-judicial powers in the Minister and for this reason the Committee will be established to continue the existing scheme for disciplinary matters.

Finally, I emphasise that the staffing structure of the new Office of Public Transport will be largely preserved. The existing skill base in areas such as the contracting process, accreditation, compliance and marketing across modes will all be retained.

Explanation of Clauses

Clause 1: Short title
This clause is formal.

Clause 2: Commencement
The measure will be brought into operation by proclamation.

Clause 3: Amendment provisions
This clause is formal.

Clause 4: Amendment of s. 4—Interpretation
The definition of the "Board" will no longer be required. A new definition relating to the Passenger Transport Standards Committee is to be included.

Clause 5: Repeal of Part 2
The Part relating to the constitution and proceedings of the Passenger Transport Board is to be repealed.

Clause 6: Substitution of heading to Part
Clause 7: Substitution of heading to Part 3 Division 1
These are consequential amendments.

Clause 8: Amendment of section 20—Functions of Minister under Act
The functions of the Board are to be adopted by the Minister.

Clause 9: Repeal of section 21
This is a consequential amendment.

Clause 10: Amendment of section 22—Powers of Minister
The powers of the Board are to be conferred on the Minister.

Clause 11: Amendment of section 23—Acquisition of land
Clause 12: Amendment of section 24—Power to carry out works
References to the Board are to be replaced with references to the Minister.

Clause 13: Substitution of Part 3 Division 3
The Minister will prepare an annual report relating to the operation of the Act. The report will continue to include specific reports on matters referred to in section 19(2)*(c)* of the Act. The Minister will be able to establish committees in connection with the performance or exercise of the Minister's functions or powers under the Act. The Minister will be able to delegate functions or powers.

Clause 14: Amendment of section 27—Accreditation of operators
Clause 15: Amendment of section 29—Accreditation of centralised booking services
Clause 16: Amendment of section 30—Procedure
Clause 17: Amendment of section 31—Conditions
Clause 18: Amendment of section 32—Duration and categories of accreditation
Clause 19: Amendment of section 33—Periodical fees and returns
Clause 20: Amendment of section 34—Renewals
Clause 21: Amendment of section 35—Related matters
References to the Board are to be replaced with references to the Minister.

Clause 22: Insertion of section 35A
The Act sets out a comprehensive scheme for the exercise of disciplinary functions. It has been decided to continue the practice under which disciplinary matters are referred to a specialist body. Accordingly, the Passenger Transport Standards Committee is to be recognised in the legislation. The Minister will appoint suitable persons to be members of the Standards Committee. A quorum of the committee will be three members of the committee.

Clause 23: Amendment of section 36—Disciplinary powers
These amendments will vest the current disciplinary powers of the Board in the Standards Committee.

Clause 24: Amendment of section 37—Related matters
Clause 25: Amendment of section 38—Appeals
These are consequential amendments.

Clause 26: Amendment of section 39—Service contracts
Clause 27: Amendment of section 40—Nature of contracts
Clause 28: Amendment of section 42—Assignment of rights under a contract
Clause 29: Amendment of section 43—Variation, suspension or cancellation of service contracts
Clause 30: Amendment of section 44—Fees
Clause 31: Amendment of section 45—Requirement for a licence
Clause 32: Amendment of section 46—Applications for licences or renewals
Clause 33: Amendment of section 47—Issue and term of licences
Clause 34: Amendment of section 48—Ability of Minister to determine fees
Clause 35: Amendment of section 49—Transfer of licences
Clause 36: Amendment of section 50—Suspension or revocation of licences
Clause 37: Amendment of section 51—Appeals
Clause 38: Amendment of section 52—False advertising
Clause 39: Amendment of section 54—Inspections
Clause 40: Amendment of section 56—General offences
Clause 41: Amendment of section 57—Offenders to state name and address
References to the Board are to be replaced with references to the Minister.

Clause 42: Amendment of section 59—General provisions relating to offences
Clause 43: Repeal of section 60
These are consequential amendments.

Clause 44: Amendment of section 61—Evidentiary provision
References to the Board are to be replaced with references to the Minister.

Clause 45: Amendment of section 62—Fund
These are consequential amendments.

Clause 46: Amendment of section 63—Registration of prescribed passenger vehicles
References to the Board are to be replaced with references to the Minister.

Clause 47: Amendment of section 64—Regulations
These are consequential amendments.

Clause 48: Repeal of section 65
Section 65 is redundant.

Clause 49: Amendment of Schedule 1
Clause 50: Amendment of Schedule 3
References to the Board are to be replaced with references to the Minister.

Clause 51: Amendment of Schedule 4
A number of the provisions in Schedule 4 of the Act are now spent and can be removed.

Schedule—Related amendments and transitional provisions
It is necessary to make related amendments to the *Road Traffic Act 1961* and the *Superannuation Act 1988*. In addition, clause 5 sets out transitional provisions associated with the operation of the measure. All assets and liabilities of the Passenger Transport Board are to be vested in the Minister by force of this provision, unless vested in the Crown, another Minister, or another agency or instrumentality of the Crown by proclamation made by the Governor. All determinations or other acts of the Passenger Transport Board will continue as if made or undertaken by the Minister. Disciplinary proceedings under Division 5 of Part 4 of the Act will continue before the Passenger Transport Standards Committee.

The Hon. W.A. MATTHEW secured the adjournment of the debate.

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

STANDING ORDERS SUSPENSION

The Hon. P.F. CONLON (Minister for Government Enterprises): I move:

That standing orders be so far suspended as to enable the Premier to move a motion on a matter of public importance, without notice, forthwith; for the maximum time allocated for each speaker to the motion to be 10 minutes, except for the Premier and one member of the opposition; and for the matter to stand withdrawn at the expiration of three hours.

Motion carried.

IRAQ

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

That this house notes the increasing likelihood of war with Iraq and the potential involvement of Australian troops in such a conflict.

Australia is on the brink of war, not because any country has been invaded or hostages taken or seas mined, and not because the United Nations has sanctioned a war. Instead, it is because allies of Australia and the Australian government itself, without the support of international law, are considering launching a full-scale war on Iraq and its people.

Australians are peace-loving people and we support the need for the rule of law internationally. That is why we support the role of the United Nations, and the United Nation's Security Council in particular, to be the body which is the global police officer and to enforce the international rule of law.

That is not the role of any individual super power: it is the role of the United Nations. That is why hundreds of thousands of Australians marched for peace last weekend. That is why 100 000 people in Adelaide alone expressed their concerns that we are on the brink of war. Now, we all know that the Saddam Hussein regime is cruel and despotic. We know that his regime has an appalling human rights record. We know, too, that his regime has been accused of using chemical and biological weapons against his own people. We know that Iraqi Kurds and Shiite are persecuted terribly by the Hussein regime. And we know that it is ordinary Iraqis who suffer at the hands of this tyrant.

But we also know that it is ordinary Iraqis—men, women and children—who will be killed, horribly maimed or forced to flee if war returns to Iraq. The United Nations has estimated that at least 600 000 and up to 1.4 million refugees will be created, as well as up to two million displaced persons within Iraq if war goes ahead. And that is besides the tens of thousands of people killed directly by warfare or as a result of the famine and disease which would surely follow war. Already, half of the Iraqi people cannot meet their basic needs, and hundreds of thousands of children suffer from malnutrition.

A war extending over months would dramatically worsen their position. The victims would be ordinary Iraqi people, in their hundreds of thousands; ordinary Iraqi people smashed of their futures—not Saddam Hussein and his clique who, like Osama bin Laden, would most likely escape with hundreds of millions of dollars stashed in Swiss bank accounts. There are also risks that a war could destabilise other Middle Eastern countries and erode or dismantle the present precarious coalition fighting terrorism—a war judged by Middle Eastern and Islamic peoples as unjust risks creating sympathy and support for terrorists who would otherwise be condemned.

A war in Iraq would take attention away from the primary threat to international security, which is terrorism, and also from the need to find a lasting solution to the conflict between Israel and Palestine—a conflict which continues to foster terrorism and violence.

We in Labor believe in a strong alliance with the United States. This lasting bond has been to our mutual benefit over many years and has been a significant factor in enhancing regional security and the confidence with which Australia defends and asserts itself. It is an enduring alliance forged in the days of Labor prime ministers, Curtin and Chifley, and I for one believe in it.

But we in Labor also have a strong commitment to the United Nations, a commitment which goes right back to 1945, when another Labor leader, H.V. Evatt, was unanimously elected the very first United Nations President. And so it is, I believe, when it comes to talk of war, that our support for the United Nations and the international rule of law must prevail.

The conditions of Iraq's peace settlement in the early 1990s was for its disarmament. So, I believe most strongly that Saddam Hussein must be disarmed, but if he is to be disarmed it must be by the deeds, accords and orderly resolutions of the United Nations.

I support United Nations resolution 1441, which requires Iraq to disarm, but the process for enforcing that resolution must be one sanctioned by the United Nations, not by one nation or by any small group of nations acting of their own volition apart from the world community. We in Australia must continue to be one of the strongest voices in the United Nations for the elimination of weapons of mass destruction. In this regard Iraq, of course, is not alone. There are other nations possessing these weapons in violation of international law. North Korea's admission of a nuclear weapons program and its intention to withdraw from the nuclear non-proliferation treaty is of great concern to the world.

The nuclear stand-off between India and Pakistan last year also highlights concerns about nuclear weapons proliferation. The process for enforcing resolution 1441, however, must be multilateral, involving a clear United Nations' mandate.

Now, let me make myself perfectly clear. I am opposed to unilateral military action. I support the weapons inspectors continuing their work as long as they and the United Nations believe they can continue to make significant progress to disarm the tyrant by peaceful means. Their work is that of the peacemakers, and it is blessed work and they deserve our full support.

I have a great deal of faith in Kofi Annan, Nobel Peace Prize winner and Secretary-General of the United Nations. I support passionately our men and women who make up the Australian defence force, but I do not believe that Australian troops should have been sent to the Middle East in advance of a mandate from the United Nations. If the United Nations decides ultimately that war with Iraq is the only option (and I pray that it will not come to that), then those United Nation's resolutions must, however we differ about their necessity, be supported by this nation. To do otherwise would be to again fly in the face of international law and would render the United Nations impotent and irrelevant.

At the end of the day, the United Nations must be able to sanction the use of force, otherwise compliance with its resolutions could not be secured and it could never achieve the purpose for which the United Nations was established. The use of force, as Jacques Chirac says, along with Gerhard Schroeder, Nelson Mandela, the Pope and nine million

civilians marching across the world last weekend, is very much a last resort. It should only be contemplated when all other options, all other means that are civilised, moderate, merciful and decent, have failed.

If the point comes where weapons inspections can no longer be progressed because of a lack of Iraqi cooperation and force has to be considered, I believe that a further resolution by the United Nations Security Council should be moved to explicitly authorise the use of force. A further resolution would most clearly provide the authority and sound legal basis for direct action.

Australians are a law-abiding people and we recognise the need for the rule of law worldwide. Since 1945, we have been proud members of the premier law-making body on earth, the United Nations. We have fought its wars. We have kept its peace. We have sent health workers, peace keepers, ecologists and counsellors to its remotest, most perilous theatres of conflict—Cyprus, the Middle East, East Timor and Africa. We live by the United Nations' mandates. We seek no more foolish or perilous course because we are not buccaneers. We have no other choice but to act in this civilised way.

It is not acceptable that the procedures of the United Nations and the rule of international law should be observed only when it suits the purpose of, or has the agreement of, a particular party. A nation, just like a citizen, is bound by the law whether they agree with it or not. I find it somewhat ironic that some of those who have most strongly criticised the US for unilateralism are now promoting their own form of unilateralism, arguing that, if the UN mandates force, we should not support its actions. That is total hypocrisy. A Security Council decision has the force of international law and must be complied with. You cannot have it both ways. You either believe in the role of international law or you do not.

In supporting a UN resolution, however, we as world patriots have a choice as to what practical form that support takes. We may, like New Zealand, opt for medical and humanitarian assistance to bind the wounds and rebuild the structures of a culture smashed by a war that was not of the people's choice, or working as we did of late in East Timor as keepers of the peace. If military action against Iraq, sanctioned by the United Nations, and only if sanctioned by the United Nations, is declared, I believe that Australia should provide support to the UN as we have done before, notably and most recently in East Timor.

But we must also be willing to play our part in providing the massive humanitarian aid that will be required following the devastation caused during and following such a conflict. Let us remember with pride that South Australia, just a few months ago, led the way following the tragic bombings in Bali by providing specialist burns units to treat its victims. How would the world, though, and Australia in particular, respond to the needs of an additional 1.4 million Iraqi refugees? It seems ironic to me that the Australian government disparages the vicious Iraqi regime but shows a lack of sympathy for those fleeing its persecution. How will we respond as a nation to cries for help from a massive number of refugees fleeing a war-ravaged Iraq and seeking asylum in Australia?

We must support the United Nations. If the rule of international law is to be maintained and strengthened, we must stand with the United Nations now. As the federal opposition leader, Simon Crean, has said to the Australian parliament:

> The path to security is not unilateralism. It is through multilateralism. The path to disarmament is through the United Nations, not through unilateralism.

By aligning itself with the wishes of the United States rather than those of the United Nations, the Australian government will place itself out of step with the expressed wishes of the vast majority of the Australian people and out of step with much of the international community, including our closest friend and neighbour New Zealand.

The New Zealand government, like most governments, has sought to uphold the principles of multilateralism, the international rule of law and the authority of the Security Council throughout the Iraqi crisis. New Zealand believes in inspection and, by inspection, disarmament, and so do I. New Zealand believes in the use of force as a last resort, and so do I. The New Zealand Prime Minister, Helen Clark, has stated a strong preference for a diplomatic solution to the crisis. She has said that New Zealand recognises that the Security Council can authorise the use of force as a last resort to uphold its resolutions but that her government does not believe that such authorisation would be justified yet while weapons inspectors are still engaged fruitfully in their inspections with the objective of disarming Iraq, and that she supports them continuing their work. I strongly support Helen Clark's position.

I implore the Prime Minister to listen, to listen to the world and to stand with the United Nations, which is the town meeting of the world, and support what it decides to do. On the weekend, Australians spoke out for peace, perhaps more strongly than ever before, and for many this was the first time they had demonstrated publicly on any issue. Hundreds of thousands of Australians—children, mums and dads, grandparents and great grandparents, ex-servicemen and women and people who themselves have lost loved ones to terrorism quite recently—all spoke out for peace and in support of the United Nations. Prime Minister, listen to your people.

The Hon. R.G. KERIN (Leader of the Opposition): As the Premier said, Australia may well be on the brink of war. Iraq has ignored a United Nations' resolution to prove that it has disarmed itself of weapons of mass destruction. The argument on Iraq has been confused by some. Some individuals and groups have based their argument on the failure of the UN weapons inspectors finding Saddam Hussein's arsenal of weapons of mass destruction. The point that has been ignored by some and by Saddam Hussein is the requirement of Iraq to prove it has destroyed its weapons of mass destruction. Instead of proving that Iraq has disarmed itself of these weapons, Saddam Hussein has been playing a cat and mouse game with the weapons inspectors. It is important to highlight the weapons that are unaccounted for in Iraq: 6 500 chemical bombs; 360 tonnes of chemical warfare agent, including 1.5 tonnes of the deadly nerve gas VX; and over 30 000 special munitions for the delivery of chemical and biological agents.

I certainly do not want war. Almost nobody wants war but almost nobody wants a madman possessing these weapons of mass destruction, thumbing his nose at the international community and remaining a threat to people of all nations. Last weekend we saw thousands of South Australian anti-war protesters marching. I am not sure how many. The organisers initially claimed 50 000, then 100 000. I am not sure how many, but obviously it was a very significant number. Our democracy allows Australians to publicly voice their opinions, and this is something that I totally respect. It is

something we could not do in Iraq, a point that should not be lost on us.

I believe in the sincerity of the great majority of the anti-war protesters but I doubt the sincerity of some Australian political figures who have used it to get attention, and I congratulate the Adelaide organisers for not allowing this to happen here. One South Australian political figure, Natasha Stott Despoja, told a Melbourne rally, 'We Australians are unequivocally opposed to war under any sanction, UN or not.' I think it is very misleading to claim that all Australians are opposed to taking military action against Iraq in any circumstances. Such statements are not just misleading but divisive, and it annoys me that these political figures with the adrenalin pumping claim that their view is that of all Australians. On whichever side of this argument we sit, we should all be tolerant of the views of others.

Let me quote a man whom we know is well respected by the Premier and many other people: 'Iraq will be disarmed of weapons of mass destruction whether it is done peacefully or by conflict.' Those words were from the British Labor Prime Minister, Tony Blair, yesterday. Whilst I respect the views of others with genuine concerns, many world leaders of different persuasions from across the planet believe that Iraq must prove that it has disarmed itself of weapons of mass destruction to prevent the use of force. I certainly hope that Saddam Hussein, albeit belatedly, agrees to the demands of the United Nations.

I want to take this opportunity to express my full support for our defence personnel who have left our shores. Unfortunately, already we have had reports that some elements are vilifying our troops. Any person harassing our troops should be condemned for their un-Australian behaviour. We still see the effects of what happened to the personnel who went to Vietnam. They wore a lot of the blame for just being the footsoldiers doing a job decided by other decision makers. The troops should not wear that. Our troops are some of the most highly trained in the world but they are also sons and daughters, brothers and sisters, fathers and mothers. They are brave Australians, and the majority of Australians are very proud of them.

I do not want to see any Australian putting their life at risk through war. War can be averted if Iraq complies with the UN resolution—it is as simple as that. If we do not apply immense pressure on Iraq we may not be able to prevent Saddam Hussein using his weapons of mass destruction in support of terrorism in the next few years. We do not need to cast our minds back too far to realise the efforts to which terrorists will go in their quest to kill thousands of innocent civilians. September 11 and, for us in particular, the Bali bombings brought home the reality that, as Australians, we are not immune to terrorist attacks. The impact of Bali will live with us for many years and with the families who were affected for ever.

I speak today with the hope that all political parties and independents will get behind our troops and demonstrate their full support for them and their families despite what our individual views may be. We have been blessed with a great nation, and division within the community on our efforts to pursue evil dictators like Saddam Hussein will only be to the detriment of Australia and of some encouragement to Saddam and his regime. Let us all join in hoping that Saddam does the right thing—I think everyone would agree with that—otherwise the UN will have to decide its reaction to non-compliance and consider the information available at the time of making its decision. It is currently hypothetical as to what information will be available to decision makers in the coming weeks, but also yet unknown is whether Saddam Hussein will cooperate and, if so, to what extent. These facts will obviously help to decide what future action needs to be taken. I sincerely hope that pressure is maintained and that Saddam Hussein will realise his responsibilities internationally and to his own people and comply.

Ms THOMPSON (Reynell): Many members will want to speak on this important issue and I want to resist travelling over any of the ground which the Premier has already covered. He spoke eloquently with great compassion and wisdom, and I endorse his words. I was one of the many people who turned out on the streets of Adelaide on Sunday, so I think it is important that I record in this place what I saw and interpreted as the views of so many of those people who gave up almost a whole Sunday in order to demonstrate their opposition to war.

I was surprised as I came down from Reynella to see so many people queuing at bus stops with not a bus in sight. As I got closer to Adelaide, the buses were even further away, but the queues at bus stops were bigger and bigger. At that stage I knew that the people of Adelaide were going to take it on themselves, as they so often do, to make their position clear. In the crowd which just kept on coming and coming even well after the start time for the March, which amazingly moved off dead on 12 noon, I saw people of all ages, generations and backgrounds. I was particularly interested to see many people of Middle European background who I guess were in their late 50s or early 60s who probably had had first-hand experience of being a refugee and living through a war. I found it particularly interesting that those people, many of whom I am sure had never been to any form of demonstration before, had come out on Sunday to indicate that they wanted to make their own contribution to saying that we have to pursue peace and that we have to do what each one of us can to avoid war.

I also saw that many people do not really understand why this situation has come about. As the Premier pointed out, there has been no invasion. Normally, people are demonstrating about an event that has happened, but this demonstration was about a prospective event. There were home-made messages, some of them knocked out on their computer, some of them on the back of a 'for sale' sign from when they last sold or bought their house; they were on the back of a Kellogg's packet or a vacuum cleaner box, on all sorts of things. It was evident that individuals were showing their commitment to getting this message across. The themes that I picked up from those home-made messages included the need to think about the children: what is worth the life of yet one more child? Many of these messages were about children.

Others showed how people do not understand what is going on, because there were many messages such as 'no blood for oil' indicating that people do not really see when there have been so many nations that have not abided by UN resolutions why there is action on this one. I call on our federal leaders supported by our sometimes excellent press to assist in explaining what is going on and why so many of our leaders have found it necessary to stand up at this time to say that this regime in Iraq must be curtailed.

Another message that I picked up was about how people think you should deal with bullying these days. Some of the people in the crowd were teachers. They know that you deal with bullying by making it very clear that this behaviour is not acceptable. The UN has done that: it has made it clear that

that behaviour in Iraq is not acceptable. We must continue to repeat that message because that is how to stop bullying, but it must also be supported by other messages such as having more teachers in the playground during times of difficulty with bullying and training peer mediators to assist young people to understand the effect of their behaviour and why it is wrong.

Can we take that lesson from the schoolyard and apply it to the international regime? I think we can. We have made our point that this behaviour is not acceptable. What would be the equivalent of having more teachers in the schoolyard? It seems to me that the proposal from the French and the Germans comes very close to that. Putting more people on the ground—with the consent of Iraq which of course is something that we cannot guarantee—is an option to explore; having more people in the area on the ground to stop the behaviour that we are objecting to. We could then call on peers, and that means working closely with the Arab nations to use their insights and wisdom about how we can deal with this issue.

That brings me back to the importance of the United Nations and the value of being able to use the broad experiences, perceptions and wisdom of all—or almost all—the nations on this earth to try to solve a problem that confronts us all. They all have different experiences of war, as we have talked about. Nelson Mandela has had amazing experiences in overcoming a violent regime through peaceful means: his wisdom should be very important to all of us. Using the UN as a continual forum to try to find a solution is really important.

One of my fears about this situation is that we may not destroy only Iraq and its children—and its women and men, who are also important—but that we may also damage the very institutions that have helped us preserve democracy, and that is the United Nations and, in Europe, the EU. The EU has been an amazing experience in developing some form of unity in an area of conflict over many centuries. They have much ahead of them, and this has tested them. I was relieved to see that they were able to produce a joint statement at the end of their meeting two days ago, and I thank them and congratulate them on what they are doing.

Basically, I was really pleased to be with the 100 000 people who turned out on Sunday. I recognise that they did not all have the same permutations of views, but they were all there to say that war is not the answer. We need to support the United Nations in more rigorously pursuing peace and prosperity for all people, and we particularly need to support those of our citizens who are usually engaged in this, and that is the defence force and many civilians who also are involved in United Nations programs.

As many here would recognise, I have been in more than one demonstration in my life, and one of the demonstrations called on the Prime Minister to send troops to East Timor. So, I recognise that there is a role for armed intervention, but we have to do so with great care, great thought and great unity. We have to respect those who act for us. I hope that we are able to do that in the context of a United Nations resolution, because it also makes our defence forces more vulnerable if they do not act in that context.

So, I plead with the Prime Minister and all our leaders in Canberra who will make this decision to act within the United Nations resolution and to continue pursuing peaceful options through the United Nations.

Mr HAMILTON-SMITH (Waite): I rise in this debate to remind the chamber that on September 11 the world changed, and it changed again after the bombing in Bali. In case anyone has not noticed, an undeclared war is going on. It is going on between determined fanatical extremists who are hell-bent on changing the world step by step into one which is not democratic, which is governed by fundamental religious and political dogma and in which women, religious and ethnic minorities are marginalised, persecuted and murdered. Does it sound familiar? It does, because we have seen it all before. We have seen the same fundamentalist dogma. We saw it in Nazi Germany, we saw it during the Armenian massacre, we saw it during the Stalinist period in Russia in the Gulag Archipelagos, and we have seen it again and again throughout history. That fanaticism is not new to humankind. Simply consider history.

The only difference with the fanaticism we face today is a new innovation of humankind called weapons of mass destruction, and they have changed the face of the world forever. In the post cold war world in which we live, all the rules of the game are new.

Before entering politics, I served for 23 years as an officer in the Australian army and as Commander of our first Special Air Service counter-terrorist team in 1980. Our job was to respond to a terrorist incident anywhere in Australia or within its region of interest that put Australians at risk—aircraft hijackings, embassy seizures—of which there were many at the time going on around the world. I served as Commander of the First Commando Regiment and spent most of my career in special forces, and studied and worked on the issue of terrorism and counter-terrorism for most of my career.

In 1993 I commanded our peacekeepers in Sinai and Egypt, part of a 3 200 people force from 11 nations keeping the peace between Israel and Egypt. I had the opportunity, during my service, to travel widely in both Asia and through the Middle East but, in particular, to attend classified and non-classified briefings and to study the effects of nuclear, biological and chemical weapons upon nations, upon women and children and upon ordinary communities.

The problems of the Middle East are many. Muslim friends of mine would talk to me when I was living there and put the view, 'Martin, you and your Christian friends will always side with Israel. You will always oppose us Muslims, because remember what you did to us during the crusades.' I would sit back in my chair in shock and ask, 'What happened during the crusades?' When you hear a Muslim's explanation of what happened during the crusades, it makes you shiver in your shoes, because they see a period of centuries during which Islam was persecuted, massacred, raped and pillaged by Christian armies that descended upon them, with papal authority, and set about attempting to destroy all that they believed. When the crusaders arrived at the gates of Jerusalem in the 11th century, they descended upon the town and massacred every man, women and child in the city, regardless of religion, ethnicity, age or gender. It was a ruthless campaign, and I recommend to everyone that they read its history.

Is it any surprise that we have the Osama bin Ladens and the Saddam Husseins of the world conjuring up images of a new crusade and portraying to their people a crusader view of history which envisages American, British and Australian armies in the 21st century launching the new crusade? Is it any surprise that we see the Osama bin Ladens and the Saddam Husseins of the world saying to their people that they are the new Salah-ed-Din? They are the new Muslim general

who defended Muslim from the Christians and defeated the crusaders.

Is it any wonder that so many poor, under-privileged Muslim people who have not had the luxuries and the privileges that we have enjoyed in western society—the benefits of an education and of economic prosperity—find this message resonating and that it falls upon fertile ground? If you are a poor young boy living in Afghanistan, Egypt or Iraq and the only opportunity you have had for an education has come from the senior religious people in your village, and if you have not had an opportunity to test that by reading a newspaper, or if you are a young girl who is banned from an education, who is not allowed to play sport and who must concede to the males in the village on almost every matter, is it any wonder that you have nothing upon which to test this crusader message that you are being given by Osama bin Laden and Saddam Hussein?

It is a short step from that to a determination to fly planes into the World Trade Centre on 11 September and kill thousands of western infidels. We all need to understand that the only road to enlightenment and a resolution of this crisis is ultimately to uplift the wellbeing of the people in these countries upon which terrorists feed and to ensure that they enjoy the benefits all we westerners take for granted so that they can see the world in a more informed and more blessed light. That is the real challenge. However, that is an altruistic goal that will take some time to achieve, and we should all be heading down that road. In the meantime, we need to deal with the Osama bin Ladens and the Saddam Husseins of the world, because those people are fanatics. They represent the type of fanatical Nazism that we have seen so many times before.

Interestingly enough, it is not confined to Islam. In 1993 I had Muslim friends come to me at the time of the Branch Davidian siege at Waco Texas following the massacre that ensued after the FBI's assault at that siege and say, 'Ah! Religious fanatics; you have them as well. Isn't it interesting that this problem of religious terrorism is not confined to Islam?' They had a very good point, because religious, political or ideological nuttery is not confined to Islam. The second message that all Australians need to understand is that this is not about a conflict of civilisations or about a struggle between Christendom and Islam but about fanaticism. You can find fanaticism anywhere you look on the pages of history. In my view, Saddam Hussein and Osama bin Laden represent the evil of that fanaticism embodied in the 21st century, and it is an evil that cannot be appeased.

Terrorism is not new to the world. As someone who has worked and studied in this field, I would like to remind the house of a few facts of life in that respect, because it goes back as far as you want to go in history. In recent times, in the lifetime of most of us, let us just consider some of the things that have happened. There were the PLO attacks in 1972 at Lod Airport in which 26 people were massacred. The attack was carried out by the fanatical Japanese Red Army under instructions from Wadi Haddad and George Habash, founders of the popular front for the Liberation of Palestine. Their manifesto was the liberation of Palestine. It is a problem that must be solved. As I give these examples, I make the point that international terrorism is a well coordinated international activity. It crosses national boundaries. It is carried out by non-states.

We can remember Black September. We can remember the attack on 5 September 1972 by the group that infiltrated the Olympic village in Munich, Germany, taking 11 Israeli athletes hostage. Two of the athletes were murdered in their rooms, and nine others were murdered at the airport when one of the terrorists threw a hand grenade into the helicopter during a botched rescue attempt by German officers. We can remember the 1976 PLO terrorist attacks on Air France aircraft that flew airbuses to Entebbe, Uganda, subsequently rescued by Israeli special forces. Killed was Lieutenant Colonel Jonathan Yoni Netanyahu. Yoni's brother, Benjamin Netanyahu, a former Israeli Prime Minister, later sat around the table with Yassar Arafat who organised that attack, and attempted to negotiate peace. We could talk about the seizure of the Italian cruise ship the *Achille Lauro*, hijacked by the PLO in 1985. We could talk about the June 1985 TWA 847 flight carrying 153 passengers and crew, largely American, that was seized by two Hizbollah extremists taking off from Athens en route to Rome with its subsequent catastrophe. We could also talk about Qadhafi in Libya's attempts and activities attacking US troops in Berlin nightclubs leaving soldiers dead.

The Hon. M.J. Atkinson: Now Libya's head of the UN Human Rights movement.

The ACTING SPEAKER (Mr Goldsworthy): Order!

Mr HAMILTON-SMITH: This move was immensely popular and judged a success by Libya. The subsequent bombing of Libya by the United States caused Qadhafi to cease his aggressive activities—until later as it transpired. PanAm flight 103 over the Scottish town of Lockerbie in 1988 resulted in the death of 259 passengers and 11 local people. We could talk about North Korea being responsible for a massive number of attacks during the 1980s such as the kidnapping of Japanese civilians. We could also talk about the action by North Korean secret agents placing a bomb on Korean Airlines flight 858 and the ensuing crash over Thailand in which 115 people were killed—a supposedly secret operation carried out by North Korean secret forces.

We could look to Europe. Given the French position at present on international matters, we could really hold the French up to scrutiny. In 1985, Australia's neighbour—our friends—New Zealand, became the battlefield for a state-sponsored terrorist attack launched by the French secret service agency, the General Division for External Security (DGSC), against the Greenpeace environment and peace movement. That attack had the authorisation and backing of high-ranking French government bureaucrats, military officers and politicians. What is even more insidious is that the attack was launched on the territory of if not quite an active ally then at least a nation friendly to France. The French have the temerity to argue that there can possibly be no link between Iraq and al-Qaeda. It is absolutely insane. Terrorism is not new to Australia, and it is not new to the international community. The events of 11 September and Bali simply catapulted it to a new dimension of horror.

Let us talk about weapons of mass destruction. I will not go on for very long but, as someone who studied this, let me simply say that, when you look at the graphs—and I have them here—you can see the effects of a 500 kilotonne device. Nowadays such a device can be placed in a shipping container, moved to Port Adelaide and detonated remotely by mobile phone from the other side of the world. Effectively, we are talking about the total annihilation of everything within 15 kilometres of the CBD, about massive unpredictable effects and about blast, thermal radiation, direct nuclear radiation, subsequent fallout, electromagnetic pulse and about blast winds of up to 500 miles per hour. We are talking about effects going beyond Murray Bridge, Port Wakefield and

Goolwa and about the annihilation of the population of this city—or Sydney, Melbourne, Los Angeles or San Francisco—you name the target!

If we are talking about biological weapons, we could be talking about reawakening plagues not seen for centuries such as the bubonic plague, Ebola and botulism—blights too horrible to imagine that can be distributed so easily by terrorists. The essential logic of those who favour appeasement is that, if you let any crackpot dictator have these weapons, they will not necessarily find their way into the hands of the people who perpetrated the events of 11 September and Bali. I say that is a fool's logic.

I have not talked about chemical weapons. I have seen film of the effects of chemical weapons on animals and humans taken during World War II, and I assure everyone that they are pretty horrific. These weapons have been used and can and will be used again. What kept the peace during the Cold War was a concept called 'mutually assured destruction'. It resulted in both sides understanding that, if either launched a weapon of mass destruction against the other, it would guarantee its own retaliatory self-destruction. It is a concept that kept us at peace during the Cuban missile crisis—and I note the flawed logic of the member for Peake's article in the *Advertiser*. I make the point that what kept the peace during the Cold War was mutually assured destruction. When you throw the concept of irrationality into that, when you hand over weapons of mass destruction to the people who are prepared to martyr themselves and the city in which they live, you destruct the logic behind mutually assured destruction and you throw awry the stability that was achieved during the Cold War by that strategic concept.

You only need to look at history. When Chamberlain went to see Hitler with his piece of paper, he was lauded as a hero by some. Let me tell you what Labor Prime Minister John Curtin said about that in 1938. It was reported in the *Advertiser* on 30 September of that year. He said:

> . . . The federal Labor Party is determined that not a man should leave these shores to fight in a European war. . . Labor believes that peace is still possible by following the path to honourable negotiation. It admires the magnificent efforts of the men who have worked so strenuously for appeasement and believes that Australia must keep out of the quarrels of Europe.

A year and a half later, our men were dying. However, the South Australian UTLC, interestingly, had a more balanced view. It disagreed with the political arm of the Labor Party, and to its great credit was reported in the *Advertiser* on 4 October 1938 saying that 'the executive of the United Trades and Labor Council yesterday decided to recommend to the meeting of the council on Friday night that, acting on behalf of thousands of workers in the state, it should condemn the Munich agreement'. A motion adopted by the executive declared that the Munich agreement was 'a despicable and base betrayal not only of the heroic people of Czechoslovakia but of world democracy in general'. It seemed that someone in the Labor movement knew where to stand in September 1938.

History tells us that appeasement of evil never works. Evil empires will not be satisfied by concessions. They will not be satisfied by agreement. They will seize upon weakness. Appeasement never works. We are faced with an evil empire. To suggest that weapons held by Iraq and North Korea will not find their way into the hands of al-Qaeda, or other terrorist movements, is naive. Such deniable operations were perfected by the KGB and the CIA during the Cold War, and I remind members that the secret services of both Iraq and Korea were KGB trained. They are masters at the art of using others to do their handiwork.

North Korea has a track record of selling anything in order to get capital into the country—rockets, missiles, explosives, and ultimately weapons of mass destruction. No-one wants a war, and I would be the first to march against war. All of us would prefer the UN to show leadership, to take the lead, but prime ministers and presidents are elected to protect the lives of the families who constitute the citizenry of their nation. They are not elected to flog off that responsibility onto international bodies and quangos—to be subject of great talkfests—in the hope that these international bodies will prevent one of their cities from being decimated.

As someone who has worked with the United Nations closely, I say that it is a far from perfect organisation. The stories from Yugoslavia of soldiers in the field ringing New York in crisis and getting a recorded message saying, 'The office is closed: it is after 5 p.m. Please ring back at 9 a.m. when the office opens' abound and were going around in military circles in the early 1990s with great mirth. The United Nations lacks strategic and military command and it lacks decisiveness.

Prime Minister John Howard and President Bush may not have a manner with which everyone in the country agrees, but the Prime Minister is doing one of many things right. He is making a decision that he knows is in the best interests of the men, women and children of this country. He is making sure that in one year, five years or 10 years he does not have someone say, 'Mr Prime Minister, a weapon of mass destruction was just released in Melbourne or Sydney and two million Australians are dead. You could have done something about it in 2003 and you stood back.' It is perhaps the greatest danger facing us in this century.

I concur with the sentiments of the Leader of the Opposition that we all need to get behind the men and women of the Australian defence forces whose job it is to protect us. I went to farewell some of those troops, and I heard the contribution from the Labor federal member who farewelled them. I spoke to the soldiers afterwards, some of whom had been under my command previously, and I was disappointed. There are certain things upon which all Australians must stand shoulder to shoulder. We can deal with this situation at a time and place of our choosing or we can leave it, step back, appease, show weakness and have problems arise later at a time and place of some evil dictator's choosing.

Today at 11 a.m. I attended a memorial service on behalf of all those who were in Darwin on 19 February 1942 and who suffered at the hands of the invader at that time, and on behalf of the 1 100 people or so who were killed that day. The message from that service was very clear. It can happen; it has happened; it can happen again; and it is the responsibility of members of parliament and governments everywhere in this country to ensure that it does not happen.

Mr RAU (Enfield): Today I think it would be useful for us if we, in a sense, imagined ourselves as a court—and I have a natural bias for doing that of course—and we should try the case for war. This case that I imagine we are trying is set against a particular background. That background has only one United Nations resolution, that resolution not being one that authorises the use of force. What are the charges against Iraq? There are four charges in the public domain against the people and government, in particular, of Iraq. The first charge is that it is a despotic, cruel, tyrannical regime. The second charge is that this regime has failed to comply in all respects

with resolution 1441 of the United Nations. The third charge is that this regime is in possession of weapons of mass destruction. The fourth charge is that there is a connection between this regime and international terrorist organisations, in particular that headed by Osama bin Laden.

On the basis of the evidence publicly available today, if we analyse those charges, we see that the result is very interesting and very clear. On the first charge, that is, that Iraq is guilty of being run by a despotic, cruel and tyrannical government, guilty. However, in relation to this guilt, we must remember that Iraq is no orphan in this respect. One can wander through the continents of Africa and Asia and find governments that have all those qualities at every turn. In particular, I draw the attention of the house to Mr Mugabe's behaviour presently in Zimbabwe. But I do not have to go on naming countries because there are so many of them that easily fit that definition. So, if Iraq is guilty on that score, it has plenty of company; and, unless we say that guilt on that charge warrants war against Iraq, and everyone else guilty of that, that is no excuse for war.

The second charge is that Iraq has failed to comply in every respect with resolution 1441 of the United Nations. In respect of this charge, it appears from the evidence of the weapons inspectors presently available on the public record that it is also guilty. It is guilty because there have been finds of weapons which apparently should have been destroyed. There is as yet to be a full account of some weapons that should have been destroyed, and it appears that the speedometer on some of its missiles have been adjusted to give them an extra few kilometres. But, on this particular charge, how many other nations are also guilty?

Remember, this charge is that there has been a failure to comply with a resolution of the United Nations. Again, we do not have to look very far from Iraq to find other countries (I can think of two that are in constant conflict, one of which has been the subject of many resolutions from the United Nations) that are constantly in breach of United Nations' resolutions. So, we find Iraq guilty but, again, with plenty of company, and is this of itself to be the excuse for war? The third charge is possession of weapons of mass destruction. In relation to this charge, again, referring to the public record, we would have to find that there is no case to answer.

It would not even be a matter that would be submitted to the court for trial. There is no case to answer. They have not found, in relation to nuclear weapons, so much as a luminous watch dial. In relation to chemical weapons, they found a few empty shells and a failure to account for some, but no evidence of any; and, in relation to the third, they have found no material. There is no case to answer on this point as yet on the publicly available evidence. And, I say again in relation to this charge of possession of weapons of mass destruction, let us look at the countries that we do know have these weapons. Let us look at countries such as, for example, India, Pakistan, Israel and South Africa—all of which are well known to hold these weapons. Is that a reason of itself to go to war, particularly when it is not proven?

The last one is that there is a connection with international terrorist organisations. Again, at present, on the basis of evidence in the public domain, there is no case to answer. Even the most avid proponents of this military action have yet to demonstrate that there is any connection whatsoever, particularly between bin Laden and his followers and this regime.

Now, of course, because a charge is not proven or there is no case to answer does not mean there is no criminal activity. It does mean, however, that the burden of proof has not been discharged. It is against that background that we are considering whether we should be involved in unilateral action in Iraq, or whether we should be waiting until the international community has come to a position where it believes that is appropriate. If there is unilateral action, there will be no winners for the following reasons: first, the people of Iraq with suffer; secondly, the soldiers and service people who are involved will also suffer, undoubtedly, and so will civilians; and, thirdly, the United Nations will suffer because its credibility will be destroyed by the fact that it is unable, in fact, to mediate in these sorts of circumstances.

This house would do well to remember what happened to the League of Nations. It would do well to remember, as I was reminded by the member for Playford today, what happened when the Italians went into Abyssinia, as it then was, and the League of Nations started to fall to pieces. I see that members opposite are nodding: they are well aware of these circumstances.

This is a very dangerous time for the United Nations. There are no winners. Also, those who would laud the activities of the French need also to examine not only what they are doing but also why they are doing it. The French have a very long history of involvement in this part of the world.

Mr Sykes and Mr Picot sat down in 1917 when T.E. Lawrence was promising much to the Arabs, and they promised a great deal to other people as well. We have the artificial division of this part of the world, in what was the Ottoman Empire, into these artificial states. It is one of the reasons why this area is so unstable and why peace—if there ever is any peace to come out of this—will be difficult to maintain. This is not a natural constituency such as, you might say, the United Kingdom, or some other relatively homogenous country, is. This is an accident of lines on a map. Mr Sykes and Mr Picot decided where the lines would be.

They have Kurds, Shiites and Sunnis. They have everything. How anyone is going to hold that together after the whole show has been destroyed will be a very serious challenge for all those who are proponents.

The other final comment that I would like to make to the house is this: Australia's role in relation to this is that we are prepared to support action, it would appear, according to the Prime Minister, irrespective of the views of the United Nations. We are going ahead, anyway. There can be only one reason for doing this, and I criticise the Prime Minister for not having the intestinal fortitude to stand up and argue his case. And his case at its best is this: we have an alliance with the United States.

We regard the alliance with the United States as being of such importance to this country that we are prepared to put it ahead of international law and to put it ahead of resolutions of the United Nations. If that is his proposition, I wish to goodness he would have the courage to argue that proposition directly with the people, instead of constantly reciting all this rubbish about the four charges that we went through in the first place. If that is the case, let us hear it, let us have an argument about it and let us make a decision as to whether we as Australians agree with that proposition.

Mr BRINDAL (Unley): I rise with very mixed feelings to contribute to this debate, at least in part, because we live in a representative democracy and I do not deny to the South Australian parliament the right to be entering into this debate. However, I would remind all members here that we are a

democracy; we are fiercely a democracy; and every Australian has an opinion on every matter that ever comes before us. We know in this chamber, often to our detriment, that our electors in droves sometimes know more than we do about subjects which we have studied and about which we have tried earnestly to come to a right conclusion, yet there are people at their breakfast tables who come to a conclusion very eagerly, very quickly, and without full possession of the facts.

While I am very interested to listen to all the contributions in the chamber tonight, I wonder whether we are not guilty of the same thing. We are not the federal government. None of us in this chamber is in full possession of all of the facts that, hopefully, the Australian government has in its possession through its security and intelligence organisations, through the Prime Minister, the foreign minister and whatever other agencies are at its disposal. So, I wonder whether we do not in some measure debate the principles, important as they are, through a measure of ignorance. I am not pretending, for the honourable member who just spoke, to have all the answers, but I am pretending to be very concerned about the questions that this raises.

I was appalled just after the Bali bombing to hear the number of people who were toting the line that, if we had simply not got involved in a number of issues of importance in the world, we would have been a smaller target and somehow or other Bali would not have occurred. One of the things that we did that was correct, and about which there would be fair unanimity in this house, was assist the people in East Timor. That was probably a good and just cause. Sometimes history has proved that we were not as right as we thought we were at the time but most of the conflicts in which this nation has been engaged were embarked upon for causes that we thought were good and right, to pursue a motive that was honourable and decent, and in the interests of humanity as they were seen at the time.

As I said, history has taught us that although we went away for good reasons sometimes they were not the right reasons, but we did it as a nation sticking up for what was right and honourable. I hope that, whatever the future holds for this nation, we stand as one place on the face of the earth for humanity, decency and values that I see as being absolute. I am not sure in this case what the correct path is. I simply do not know.

The Hon. M.J. Atkinson: What are you on your feet for?

Mr BRINDAL: Because into this debate must be injected an element of non-certainty, because a lot of people who speak in this debate will tell us absolutely positively—

Members interjecting:

Mr BRINDAL: I notice that the minister is contributing from the gallery. I did not think that was allowed, sir. A lot of people will say absolutely that we should be doing this and a lot of others will say absolutely that we should not be doing this. Along with the great majority of the Australian nation I only wish I knew, because I am not certain. I am not convinced that, just because Rupert Murdoch and all the other media barons feed us a line and tell us that this is what is happening, it is necessarily so.

I am not sure that some of those nations who are so appalled that Iraq is in possession of weapons of mass destruction have not probably got arsenals of weapons of their own that are equally appalling, perhaps more frightening, because some of the more technologically advanced nations could have things much worse than Saddam Hussein has. Because they see themselves as the guardians of freedom and all that is right, they simply do not come into question. To respond to the Attorney's query as to why I am contributing, what concerns me about this debate is that we are expressing opinions as a parliament. We have every right to do so, but I do not know that we are a forum in this nation properly equipped or properly informed to come up with the definitive answers.

We have a federal system of government and we have federal leadership. Both our parties are represented in that chamber. While we have every right to express a point of view, we elect our national leaders to lead the nation, and this is a matter of foreign policy. It is a matter that involves our armed services and it is a matter on which they should be better informed than we. I believe that the United Nations is an appropriate body to fully investigate this matter and to fully arrive at decisions. I would say that the United Nations, like any democratic system, probably has its own failings, but those failings being as they are, it is still a body in which we should put some trust and some faith until it proves incapable of doing it.

Like my colleague the member for Bragg, I do not believe it is right to say that the Prime Minister has said at any time that he would ignore the findings of the United Nations, and I hope that will not be the case. This debate is important. I will listen with respect to the contributions of my colleagues but I urge every member in this chamber not to let South Australia think that we are right and that our opinions matter. They do matter in so far as they contribute to the debate, but we owe it to our national leadership, to our national parties, to get in behind them and support this nation through what might be a time of crisis ahead.

The Hon. M.J. ATKINSON (Attorney-General): The British Foreign Office released a report in November last year on the human rights record of the Iraqi regime. It draws from many documents and reports published over the last 20 years by Amnesty, Human Rights Watch, the UN Special Rapporteur for Human Rights, and others. It is a frank and disturbing catalogue of state terror visited on the people of Iraq by their own government, the government of Saddam Hussein and the Iraqi Ba'ath Socialist Party. The report evidences what has been described by resolution of the UN Commission on Human Rights as:

> The systematic, widespread and extremely grave violations of human rights and international humanitarian law by the government of Iraq, resulting in an all-pervasive repression and oppression sustained by broad-based discrimination and widespread terror.

Here are the details. Under they heading 'Arbitrary and summary killings', the report states:

> Human rights organisations. . . have reported the phenomenon of killing prison inmates in order to 'cleanse' the prisons. In 1984, 4 000 political prisoners were executed in a single prison, Abu Ghraib. An estimated 2 500 prisoners were executed between 1997 and 1999 in a further 'prison cleansing campaign'.

A document is reproduced from the Baghdad security headquarters to a local security chief, instructing the locals on how to deal with demonstrations. It instructs that the demonstrators are to be herded together, and then:

> After taking the above measures and containing the hostile elements, armed force will be used in accordance with central instructions to kill 95 per cent of them, and to leave 5 per cent for interrogation.

Under the heading 'Persecution of the Kurds', the report states:

> Amnesty International estimates that over 100 000 Kurds were killed or disappeared during 1997-1998 in an operation known as the

Anfal campaign. . . The campaign included the use of chemical weapons. According to Human Rights Watch, a single attack on the Kurdish town of Halabja killed up to 5 000 civilians and injured 10 000 more.

Saddam's regime is pursuing a policy of Arabisation in the north of Iraq to dilute Kurdish claims to the oil rich area around the city of Kirkuk. Kurds and other non-Arabs are forcibly relocated from there to other parts of Iraq.

Under the heading 'Persecution of the Shia community', the reports reveals:

The Shia community, who make up 60 per cent of Iraq's population, is Iraq's biggest religious group. . . More than 100 Shia clerics have disappeared since the 1991 uprising. . . The UN Special Rapporteur reported his fears that this formed a part of a systematic attack on the independent leadership of Shia Muslims in Iraq.

During the 1990s, Saddam pursued a policy of draining the marshes area of southern Iraq, so forcing the population to relocate to urban areas where it was less able to offer assistance to anti-regime elements and could be controlled more effectively by the regime's security forces. As a UN Environment Program report put it:

'The collapse of Marsh Arab society, a distinct indigenous people that has inhabited the marshlands for millennia, adds a human dimension to this environmental disaster. Around 40 000 of the estimated half million Marsh Arabs are now living in refugee camps in Iran, while the rest are internally displaced within Iraq. A 5 000 year old culture, heir to the ancient Sumerians and Babylonians, is in serious jeopardy of coming to an abrupt end.'

An annexure to the report tallies the cost to the Muslim world of Saddam's regime. An estimated million dead as a result of Saddam's invasion of Iran in 1980 and the eight-year conflict that followed, the majority of them Iranians. There were 100 000 Kurds who died as a result of the 1998 Anfal campaign; 5 000 killed in Halabja; between 3 million and 4 million Iraqis who have abandoned their homes and sought refuge in other countries; and many hundreds of thousands more who have been internally displaced as a result of the systematic destruction of towns and villages in the north during the war with Iran, as a result of the forced relocations in the south, as a result of the draining of the marshes, and as a result of the arrests, the torturing and the executions.

On Sunday, while tens of thousands of South Australians marched to try to stop regime change in Iraq, I attended at Salisbury the Turkish Feast of Sacrifice to mark the end of the Hajj, the Islamic season of pilgrimage. As I wended my way through the feast I came across a group of Turkmen from Iraq. We spoke about the looming war and one of them mentioned that he had been a conscript soldier in the Iraqi army during the 1991 Gulf War. An older man, Abdul, and his wife had been featured in a story in the *Advertiser* on the day before which was headlined 'Free from Saddam, but fears for those left behind'. Abdul looked forward to the Anglo-American armies advancing into Iraq, and he expected the narrowly based government of Saddam Hussein to collapse within a couple of days of this. Indeed, he thought that the deployment of Anglo-American forces in the Gulf, which the peace marchers deplore, might cause the Hussein government to disintegrate even before a shot is fired.

He said that Iraq could be the fifth richest country in the world if it was not governed by totalitarian gangsters. His ex-serviceman colleague also welcomed the Anglo-American intervention but cautioned that the invading forces should avoid casualties because Iraqis would hate whoever killed members of their families. He also feared that, as in the aftermath of the Gulf War, the collapse of the Hussein government would lead to anarchy and thence to murder, robbery and looting. He hoped that the American plans for a new Iraqi government capable of commanding authority and imposing order were well advanced.

Many minds better equipped than mine to deal with such matters have canvassed and will canvass the rule of international law as it applies to Iraq, the validity of unilateral action as opposed to UN-mandated action, and the finer distinctions of illegal versus legitimate intervention. I simply say that we have a moral responsibility to defend our fellow humans from totalitarian dictators who kill thousands of their own subjects.

Mr BROKENSHIRE (Mawson): Like the member for Waite, I, too, attended on behalf of the Leader of the Opposition the Darwin Defenders Memorial Service today. Afterwards I went to the Shrine of Remembrance and spent a little time thinking about matters, because there are two Brokenshires listed on that shrine of remembrance who did not come back from the First World War. They were my two great uncles, and the third Brokenshire who did come back but who was gassed in the trenches was my grandfather, who died in his 40s. My mother's father (my other grandfather) died aged just over 50 after being involved in action in Darwin, and my own father had a reduced lifespan after being involved in the whole of the Second World War from the age of 17. In the year he died I took him down to that particular Shrine of Remembrance for the dawn service. I am glad I did because it was the 75th anniversary of Anzac. On the way down, Dad said to me when we were talking about the war, 'You will have to worry about parts of the Middle East in the near future.' That was 13 years ago.

I have seen his pain and suffering. In the year that my father died, 45 years after the Second World War, he still had shrapnel coming out of his system regularly which festered and caused him immense pain. Proudly he kept his medals close to him right through his life including the Greek medal that he received when they sank the *Coleoni* at Crete. So, because of that background I have a feeling for and an understanding of why so many people marched in the peace rally. I feel for them and I applaud them from the point of view that they are calling primarily for a peaceful world, one in which we will have the great pleasure and enjoyment of living for the rest of our life, but that comes at an enormous cost. I am sure that many colleagues could share stories like those which I have just shared with you about my own family.

I have visited the war zones in Lebanon and I have watched the United Nations peacekeepers. I saw some things there that concerned me immensely, but I do not have time to go into those tonight. We saw where the United Nations Security Council was advised about the tragic situation in Rwanda where 800 000 people died and they moved too late. We have seen what is happening in Zimbabwe at the moment. What is the United Nations (in particular, the United Nations Security Council) doing about that? Since 1991, the United Nations (in particular, the United Nations Security Council) has been putting pressure on Saddam Hussein to agree to give up weapons of mass destruction, and we have heard the stories in Iraq about what is happening with the gassing and starvation of some of their own people and the raping of some of their own women.

I have had the pleasure of having a one-on-one meeting with George W. Bush when he was the governor of Texas. It was only for about 20 minutes, but it was a precious 20 minutes for me. It gave me a chance to personally get some feel for the now President of the United States of

America. I have also watched with interest Tony Blair, the Prime Minister of England, and his involvement in this, as well as that of our own Prime Minister John Howard. I ask those people who say that Prime Minister Blair and Prime Minister Howard are doing what they are doing for ulterior motives and, in particular, for political reasons: why would they do that when both Tony Blair and John Howard had popularity ratings that were sending interesting messages to both the Tories in England and the Labor Party in Australia? Why would they have made this decision?

We have seen some interesting situations with the media. Some of the media reporting has been quite good; some of it has been terribly biased, and to me that is disappointing. You may have heard this morning a reporter talking about how everything is screened in Iraq, that all the satellite information that it sends back is screened, that the people of Iraq are brainwashed, that everything is filtered and there is no democracy at all. Some people say that this is all about oil. I have been advised of recent contracts that have been signed by both Russia and France with Iraq when it comes to oil, and it is interesting at this point in time to see the current position of Russia and France.

I do not profess to be anywhere near as clever or as well briefed as, or having the intelligence of, a lot of people who are making these very important and difficult decisions, but as police minister for 3½ years I was privileged, particularly later in that period, to get detailed briefings about the terrorism behind 11 September. The current police minister would be getting those briefings as well. This is about much more than oil: this is about getting on top of terrorism before it is too late. My colleague the member for Waite highlighted to the parliament just what can happen if it is too late.

For those members who have not been over there, I encourage you to go along the death railway and the bridge over the River Kwai, the JEATH War Museum and the JEATH War Cemetery, and have a look at row after row of young Australians' graves, most of those young people having died at 17 and 18 years of age after making the ultimate sacrifice. Again, I understand why people are appealing for peace, but at times you have to make the ultimate sacrifice in order to have peace for a great period of time. The last thing all of us who are parents, particularly those of us who have seen what has happened to a family that is directly involved, want is for our children to be in any way injured or lost in a war. However, other people made those decisions to give us opportunities, and we therefore have to think very seriously about what is going on.

We will not have too many chances in the world to try to maintain peace and wipe out terrorism and evil. We cannot be complacent, we cannot just believe in what we believe in (that is, peace) without supporting the right sort of actions. The United Nations Security Council has a great opportunity now, the pressure has been put on Iraq, and it is up to the United Nations Security Council to do something before it is too late. I therefore appeal to everyone to be strong at this time, to think this through clearly, to pray about what is happening, but ultimately if we want to live in a democracy, in a society such as we have had the privilege of living in for many generations and a passion to live in for many generations into the future, we may have to make the ultimate sacrifice and make the ultimate decision to destroy terrorism and evil.

The Hon. R.B. SUCH (Fisher): I would like to make some comments more by way of observation rather than engage in evangelism. I think one of the dangers throughout not only Australia but elsewhere is that we have a lot of evangelists both for and against war. I hate war. Like the member for Mawson, members of my family died in the First World War and the Second World War, and others suffered long-term consequences. So I hate war. I do not want to see anyone—young Americans; young Australians, certainly; young British; young Iraqis—die in a war.

But, ironically, we are debating this issue, in a sense, after there has been a 'commitment', because I think it would be very difficult now for the Australian government to pull back because it would be seen as a loss of face and upsetting the United States and the United Kingdom. I think we need to ask why we are trying to get involved in an area which is not really directly within our sphere of interest. I know some people say that you cannot isolate yourself from the rest of the world, but we have some areas that are of more immediate interest and significance than other areas, and I question why we are getting involved—or potentially getting involved—in Iraq at all.

The member for Waite made mention of Osama bin Laden and September 11. There has been no clear-cut link between Iraq and Osama bin Laden or September 11. If there is, I am waiting to hear or see it. That is not to say that the Iraqi regime is a good regime—it is an evil regime, like others in the world—but, once again, because others are evil does not mean you do not take action when necessary against a country such as Iraq.

I suspect that some of this potential war talk relates to some unfinished business which President Bush junior wants to do to follow what former President Bush senior did not do in that region 10 or so years ago. I distinguish between the United States in terms of its people, for whom I have great personal affection, and the current administration and, in fact, the general administration of the United States, which is like a big machine that rolls on. Anyone who has been to the United States, as I have on many occasions, would appreciate that their economy is very much based on a military connection one way or another, and, ironically, many of the weapons that Iraq has came from the United States, which was a backer of Iraq many years ago.

If there is a war in Iraq, it will be fought in the towns and the cities, not in the desert, as happened 10 or so years ago, and that will mean horrendous loss of life for the innocent civilians in that country. We need to remember that Iraq is not a homogeneous nation. Reference has been made by the member for Enfield to the two major Islamic groups there and the fact that in the north are the Kurds. People say that Saddam Hussein is attacking his own people (and I am no defender of what he has done, because he is an evil character), but I do not think that he would classify the Kurds as part of what he would see as the real Iraq: he would see them as an enemy. So, I think people need to be careful. It is no justification for the evil acts that he carried out against them, but I do not believe that he would see the Kurds as part of his core population.

An important question to ask is: what or who will replace the regime? We have now moved on from, first, pursuing Osama bin Laden, who still has not been caught, despite the huge resources directed at that one individual. But, who or what will replace the regime in Iraq? I think there is a real danger that it could destabilise not only the Middle East but a lot of other countries, particularly those which have a significant Islamic population.

I would like to see Australia be more independent in its foreign policy and, certainly, in its activities generally overseas. That is not to say that we cannot be friendly with the United States but, because Australians do not want to spend money defending themselves but would rather spend money on consumer goods, we continue to be tied to the apron strings of the United States, and I do not think that is in their interests or ours.

One of the questions people ought to ask is: why is the United States hated so much around the world? We are starting to join that camp, and I think we need to be very careful—and this is a point that has been made by Josh Deegan's father—because, with our actions and following closely on the United States, we will be seen as one and the same. I am a proud Australian nationalist and I do not want to see the day when we are seen as Americans under a different name.

I think one of the ironies of this potential conflict is that many of the fundamentalists in the Christian denominations are lining up against the fundamentalists in parts of the Muslim faith. There is a real irony there and, as someone who grew up in a fundamentalist Christian church, I know the logic and the arguments that are trotted out. Anyone who believes that they have the total answers to life and death, and so on, pose a real threat to the rest of society, because there is no scope for tolerance or understanding if you believe you have the total answers to everything. It does not matter whether you are a Muslim fundamentalist, a Christian fundamentalist or anyone else: you should not take that absolute dogmatic view. I guess people would say that religion is dogmatic by its very nature. However, there are degrees in terms of how tightly one argues that dogma.

One also needs to ask: what can Iraq do at the moment? It has a significant area under a no-fly zone which is patrolled regularly by the United States and the United Kingdom. Its army is nowhere near what it was 10 years ago. It has been under sanctions for a long time, which have had the outcome of causing many of its children to die early—

Mr Koutsantonis: Why is that?

The Hon. R.B. SUCH: They are subject to sanctions.

Mr Koutsantonis interjecting:

The Hon. R.B. SUCH: They are subject to sanctions which are causing the ordinary people tremendous suffering. I pose the question: what real threat is Iraq posing to anyone? The United States could wipe Iraq off the face of the earth any time it chose. People talk about atomic bombs: they are only toys in relative terms. There are hydrogen bombs, neutron bombs and all sorts of evil weapons out there. The first time that Iraq stepped out of line, the United States could blow it off the face of the earth. And if there was any suggestion of a link between Iraq and al-Qaeda or September 11, the Americans would have been in by now, and certainly would have kept some presence there. They would not have waited for the United Nations, or anyone else. If there was any link, they would have been in there by now; rest assured about that. That link has not been made.

That is not to say that the Iraqis are not hiding weapons of mass destruction. I believe that the United States and the United Kingdom are aware that they are hiding something, not only because they supplied much of it and know what is there, but also because their secret agents have told them what is there and they do not want to reveal some of that which would put those agents at risk.

The United Nations is the only vehicle by which intervention should occur. You do not get peace by being weak, but you do not get a lasting peace by being reckless, either, and to have unilateral or multilateral action not sanctioned by the United Nations I think would be an absolute disaster, not only for the United Nations but also for peace in the years ahead. So, if there has to be action, it must be only through endorsed action by the United Nations.

Countries such as Australia and the United States ought to be looking at the root causes of terrorism and the injustices and the feelings of anger and hostility which exist amongst many Muslim youths in many countries, not only in the middle east but elsewhere and, until we address and deal with some of those issues, we will not get a lasting peace. You will never stop a terrorist who is prepared to give their life for a cause, so we need to put our efforts into tackling the root causes, and remember that wars are basically caused by old men and women who put young men and women to death in particular conflicts.

To some extent, the jury is still out on this whole issue. However, more time is needed and can be given so that proper inspections can be carried out in Iraq. The United States is pushing hard for a quick resolution, only because of the military advantage in fighting a war during the cool season. That is what it is about. There is plenty of time to do a proper inspection, with more inspectors, as suggested by France and Germany. I believe that Australia should be supporting that approach.

Time expired.

Mrs PENFOLD (Flinders): I believe that the world-wide protests unfortunately may have increased, not decreased, the chance of war—although this would certainly not have been the intention of those who walked against war in Iraq. Saddam Hussein now has much less incentive to comply with resolution 14.41, which would prevent war and save his people from the effect of sanctions but would, of course, not give them any more rights than the few they now have. He is winning the propaganda war. As stated in the *Advertiser* on Tuesday this week:

> Iraq has seized on world-wide anti-war rallies as a victory for Saddam Hussein.

Russian and French interests have both been granted massive oil concession areas by Iraq. This should disqualify them from veto rights in the UN. Their governments can use the protests to veto a war that would result in the loss of these concessions. China has no interest in a precedent that would reduce its influence over North Korea and increase that of the UN, and can also now justify the veto. Therefore, it is not a valid expectation that the security council will be objective in deciding on any future resolution.

History does not support appeasement as a means of preventing war. In fact, the reverse would appear to be the case. Having a father and an aunt in the last world war and having recently visited the Somme and the graves of three of my uncles, lying with thousands of others, I know the horrors of war. I am also aware that it was France where mustard gas, the first man-made weapon of mass destruction, was used with devastating effect. The eye witness accounts of soldiers watching their mates die in agony are never forgotten. One account that comes to mind is that of a soldier who fortunately had a gas mask to wear, leading a horse and cart to pick up dead and dying comrades and his impotence in listening to the retching.

Previous weapons inspectors in Iraq ensured the destruction of mustard gas that should have been destroyed years

ago. This would not have been done without the strong stand by the United States, Britain and the allies. The means of delivery make the current weapons vastly more efficient, and only the very naive would believe that Saddam has destroyed his chemical and biological weapons and perhaps dirty nuclear weapons. Neither Dr Blix nor his predecessor Richard Butler appears to believe that these weapons have been destroyed. This is probably the last chance to force Iraq to disarm. It is only the certainty of war as an alternative that has enabled weapons inspectors access. I believe that the best chance of no war is to increase that certainty, not to decrease it.

The actions of anti-war marchers world-wide may unfortunately cost thousands of lives. The alternative—and what many may appear to want—is the withdrawal by the United States and other forces. This could be a dreadful outcome as it could easily lead to a virtually unstoppable arms race in the region, all financed by oil money. If Saddam can retain his weapons, Iran, Saudi Arabia, Kuwait, Turkey and others will have a very strong incentive to arm with similar weapons, and North Korea, which is already threatening the world with a nuclear attack, will be almost impossible to disarm. People accuse America of only wanting oil. Of course oil is an issue; without it Saddam would not have been able to build up one of the largest armies in the world. Further, he would not have invaded Kuwait.

In the event of major conflict in the Middle East, world economies could collapse, as the main drivers—the democracies of the US, EU and Japan—would run out of oil. The marchers should contemplate another 1930s size recession and consider the multimillions of people—especially the poorest—who would suffer as a result. Those Australians who are anti-American should remember the role America has had in the two world wars and consider where Australia could now be.

I remember the Japanese monetary notes that had already been printed for Australia that my dad brought home from the war in New Guinea. Without the military might of America, the slaughter in Bosnia and Kosovo may have continued to the last Muslim. The rescues of the Muslims in Kosovo by NATO coalition—mainly America—was done without security council authorisation. Was that wrong? Where was Mr Rann then and the rest of his colleagues? Without the United States, Saddam may have rampaged through neighbouring countries after the first war in 1991. What other country had the military might to defeat him? The thought of the loss of life (and injuries) in wartime among both militants and innocents is horrific. However, the delivery by long-range rocket of deadly chemical or biological material and the losses that would occur both immediately and from the inevitable retaliatory attacks would dwarf those of any potential war now. We do not allow the build-up of murderous weapons in our community (and this has been a major policy of the Howard government) and we have police forces to prevent it. We should not allow weapons to be controlled by aggressive despots who are capable of killing populations in the international arena. Sooner or later those weapons will be used.

In the absence of the UN police force, what other country would the demonstrators prefer to be the lead policemen—perhaps Russia or maybe China? America is far from perfect, but it is the only democracy with the military might to act in this role. Without it, we would have a much more dangerous world. The federal government is morally right in supporting maximum pressure on Saddam to disarm or leave. Unfortunately, in my view the value of that pressure has been undermined by the demonstrators. I urge people to consider carefully before protesting not just the issue of war or no war but the much broader issue of peace and the suppression of militaristic states that would create a devastating conflict across the world. We should keep in mind that the destruction of western economies by the denial of oil from the Middle East before alternatives are developed would be seen as a major victory by some. As is often said, democracy as we have in Britain, the USA and Australia is far from perfect but it is the best system we have yet found and considerably better than extremist rulers using terrorism and murder. Our democracies have been hard fought for but now appear to be being taken for granted. With all my heart I support the young people in our armed forces and thank them for being prepared to fight for freedom and democracy and all that we believe in. I also thank the families and communities who support them, and a federal Liberal government that has made the tough decision to stand and fight alongside our allies.

Mr KOUTSANTONIS (West Torrens): There is an old saying, 'The only way for evil to succeed is for people of goodwill to do nothing.' While I have had some disagreements relating to policy of the current administration in the United States, I do not believe that the United States or its people are warmongers. I listened with interest to the contributions of members who are all people of goodwill speaking their minds on issues in which they believe passionately. All people who protest and exercise their democratic rights have the right to be heard and respected for those views, and I reject entirely the previous speaker's claim that those people might be in any way encouraging or weakening the position of the coalition against Saddam Hussein. They are simply exercising a right that they have earned through their forefathers in demonstrating what they believe to be their will.

The member for Enfield makes some interesting points. He wanted to try this as a case of law within the United Nations. He said that there is no evidences that Iraq has weapons of mass destruction. A brief look at history would show that in 1998, when the United Nations sent inspectors to Iraq—and they were subsequently expelled by the Iraqi regime—they logged over 50 000 weapons, which are now unaccounted for. When Hans Blix specifically asked Tariq Aziz, 'Where are these weapons that we logged in 1998?', the answer was, 'We do not know.' There is a case to answer, but which organisation makes them answer this question? There are three points of view in this argument. First, no war under any circumstances; secondly, war only under the sanction of the United Nations; and, thirdly, unilateral action by the coalition of the willing.

I have a problem with people who say to me that war is okay if it is sanctioned by the United Nations. Either war is oppressive and abhorrent in any circumstance or it is not. The United Nations is a fine organisation but it is lacking in will. To this day, there are still thousands of Turks and Cypriots missing as a result of that illegal invasion which was condemned by the United Nations, yet no action has been taken. There are hundreds of thousands of Armenians who have been denied the rights of their forefathers: they have been massacred by a regime. The United Nations has not acted. Sometimes we rely on the international community to make these countries responsible for their crimes.

To make the argument for war, we have to look to leaders of the past. Today's leaders are not worthy of carrying their

shoes. I refer to the Cuban missile crisis—and I wrote an article about this in the *Advertiser*. When John Kennedy was faced with secret information from the U2 spy missions that Soviet missiles were capable of launching an attack on the United States from 90 miles off the coast of the United States, he was told by his joint chiefs to launch an immediate surprise attack—to ignore the United Nations because he was the President of the United States. He had sworn an oath to defend that country against enemies, foreign and domestic. He said, 'No, I will make the argument and the case for war amongst the international community. I will send my ambassador Adlai Stevenson to the United Nations'—and he did.

He confronted the Soviet Ambassador Zorin and said that the United States would wait until hell froze over. He wanted to show that there were missiles in Cuba and he said that the Soviet Union was guilty of using that imprisoned island as a floating missile base to attack freedom. The Soviets were caught out lying and the international community was turned against the Soviet Union. Before that case coming before the United Nations, the world was divided, as it is today. The French were saying, 'Do not invade.' The Europeans were saying, 'Do not get involved.' The American community was divided. It took the United States to show them secret surveillance, which forced them to vote unanimously to support the United States' position.

We need to use the United Nations in the way in which John Kennedy used it to prove moral authority. Saddam Hussein is a tin-pot dictator, a fascist dictator, who is murdering his own people and who should be removed. However, he has won the argument against John Howard, Tony Blair and George Bush for the right to survive. Why? Because these men have not made the argument for war and they should—and shame on them for not winning the argument! The people of the Middle East deserve to have leaders who will impose upon them morality. This is not about oil and it is not about weapons of mass destruction: it is about the international rule of law. It is about our saying that some countries should not be behaving in the way in which they are behaving.

I believe that, unless we have UN backing for this assault, we lose all moral authority to rid the world of a fascist dictator who is punishing his own people. I believe that war is abhorrent and, unfortunately, I do not believe that sanctions work. They have not worked in any country. Sanctions have been imposed on Cuba for the last 30 years—and they have not worked. The fact is that I am not sure of the solution. I do not believe that the United States is the carrier of all moral authority in the world. However, I do say that the United Nations is our last best chance at a civilised world, otherwise it is the rule of the thug, the rule of the bully who has more guns and a bigger army and who is prepared to spend more of their GDP on weapons rather than on infrastructure.

What we have to do is show some moral authority. I say this to the people of Iraq and the people who say that we are invaders of Iraq: we are not invaders of Iraq. If the UN does sanction action against Iraq, we will be liberators. Those people are suffering. If members do not believe me, then they should look at the Amnesty International web site and read the atrocities that are detailed—

Mr Hanna: Just like they liberated Poland in 1944.

Mr KOUTSANTONIS: From your point of view, they were liberated; that is right. Those of us who are afraid of war have good reason to be afraid. The member for Enfield and I had a discussion on Saturday night about what it means for a nation to invade another nation and impose a regime change without some sort of legal backing. Does that mean that one day another country can impose its will upon Australia? Maybe others will feel that our democratic institutions are not fair or representative of our people's views and want to impose their will upon us.

That is an argument I dismissed at the time, but I have thought about it since. I do not entirely agree with it, as I believe that democracy comes from higher moral ground when we argue intervention because we allow our people the freedom to say what they believe. The United Nations has to face up to its responsibilities. Unless we use the forum of the United Nations, it will fall in a heap. If the United States acts unilaterally (as I think it will), I believe it will doom the United Nations to irrelevance. When NATO bombed Serbia in 1999 after a UN veto, there were no protesters in the streets—

An honourable member interjecting:

Mr KOUTSANTONIS: There were protesters at State Council in the Labor Party, but I spoke against it. We did not see the mass rallies that we saw on the weekend. Why was that? Why was war okay in Serbia but it is not okay in Iraq? It is because we had the argument and the moral authority to stop the ethnic cleansing, the mass war graves and the murder of innocent human beings simply because of their faith. Today the United States has lost the argument and it is a shame, because democracy should never lose the argument.

Mr MEIER (Goyder): I am pleased to have the opportunity to participate in this debate. Time limits one, and I will not go over the various areas of weapons of mass destruction, chemical weapons and so on as so much has been said in this debate—although perhaps not quite as much as has been said in the general media. So much has been said about the dictator Saddam Hussein, the fellow who has ignored and snubbed the United Nations time after time. He has denigrated the United Nations. He has ignored its resolutions basically for the past 12 years. He has attacked his neighbours—Kuwait and Iran stand out. He has poisoned his own citizens. He has broken literally every rule of international law.

The United Nations needs to take action and it needs to take it soon, because otherwise Saddam Hussein will be the victor even with regard to the peace rallies. I have a lot of sympathy for the peace rallies. I understand probably what the vast majority of people are wanting to get across, but it was very disturbing to read the headlines indicating that Saddam Hussein took this as people being on his side—that the peace rallies support him. Therefore, we have to be very careful that we are not playing into this dictator's hands.

Tonight I emphasise that it involves not only Saddam Hussein but the extended family. Many of us would remember that his son and wife—I think that it was only one wife and family—fled Iraq soon after the Gulf War. If members recall, a few of the atrocities that occurred were highlighted at that time. After some weeks, the son and his wife indicated that they wanted to return to Iraq and Saddam Hussein said, 'We will welcome you back and you will not be punished at all. You are my son and you are free to come back.' The whole family went back to Iraq. We know what happened a few weeks later: they were all killed—annihilated. That is how he deals with anyone who even thinks of betraying him. One of his sons is the infamous Udayy.

I would like to highlight an aspect that has been broadcast on the ABC recently and highlighted in the *Weekend Pundit*. That publication states:

> The first segment on the show focused on Saddam Hussein's oldest son Udayy, probably the most feared man in Iraq, bar none. As bad as Saddam is, Udayy is far worse. He's taken brutality to a whole new level. He is known to be a killer, a thief, a torturer, and rapist.
>
> He has a collection of luxury cars, reputed to be over 1 200 in number. In a country where poverty is prevalent, he drives a $200 000 Rolls Royce Cornishe. If he spots a car he likes he takes it, even if it is already owned by someone else. He's a spoiled child, but one with a lot of power.
>
> One of his hobbies is rape. As reported by his former press secretary, now in exile, he likes raping women. Reportedly he prefers them young and beautiful, sometimes as young as 12. If they're foreign women, so much the better. One of his uncountable victims was a visiting Russian ballerina. Others, a pair of French college students invited to a 'party' at a hotel in Baghdad hosted by Udayy. Once they entered the suite where the party was supposed to be, they were seized, stripped, and forced to have sex with each other at gunpoint while Udayy's aides filmed the sexual acts.
>
> Udayy also has the distinction of being the head of the Iraqi Olympic Committee. He has an unusual way to motivate the athletes under his supervision—imprisonment and torture. If they don't perform to his expectations they can expect harsh reprisals, such as torture, amputation, electric shocks, and even execution. Iraq is the only country whose Olympic Committee has its own prison for its under-performing athletes.
>
> It has also been reported that he was in charge of the interrogation (i.e. torture) of captured coalition pilots during the Gulf War in 1991. Jeffrey Zaun, a navy pilot captured by the Iraqis, was forced to 'confess' on Iraqi television. What the TV audience didn't see was the man standing off camera with an automatic pistol pointed at Zaun's head, to be used if he didn't say the right thing. Zaun said in an interview with 20/20 that the other American POWs he was imprisoned with were tortured and threatened with castration and execution. All of this was under the direct supervision of Udayy Hussein.
>
> Former aides and reports from intelligence services report that Udayy is directly responsible for thousands of deaths and rapes, as well as for the torture of thousands more. This is behaviour that is not tolerated in democracies. It's behaviour that is not tolerated in other dictatorships.

Millions of Iraqis will not be sorry to see Saddam and this son—and there are other sons—eliminated, and why not? In fact, it is a pity that time does not permit me to read further. However, further information indicates that in one infamous incident of mass torture, Udayy Hussein ordered the national football team to be caned on the soles of their feet after losing a World Cup qualifying match. It would almost seem that perhaps the people wanting peace want to follow some of these aspects. I would never suggest that, but I just wonder whether they are aware of the atrocities that are occurring.

What about the women's movement? The heads of many women have been publicly cut off in the streets under the pretext of being liars, while in fact they mostly belonged to families opposing the Iraqi regime.

Members of Saddam Hussein's gang have raped women, especially dissident women. The wives of dissidents have been either killed or tortured in front of their husbands in order to obtain confessions from their husbands. Women have been kidnapped as they walk in the streets by members of the gangs of Udayy and Qusayy and then raped. I have time to highlight only one small aspect of the atrocities in Iraq and why we need to take action, and we need to take it quick smart before thousands of others are raped and before others are murdered by this tyrant and all the thousands who follow him.

Saddam Hussein's methods of torture include eye gouging. Amnesty International reported the case of a Kurdish businessman in Baghdad who was executed in 1997. When his family retrieved his body, the eyes had been gouged out and the empty eye sockets stuffed with paper. Of course, that was before he was actually killed. Piercing of hands with an electric drill is a common method of torture for political detainees. Amnesty International reported one victim who then had acid poured into the open wounds. Other methods include suspension from the ceiling, electric shocks, sexual abuse and other physical torture. It is an atrocious regime in the way in which it is governed.

The weapons of mass destruction simply add to it. You could never trust a thing anyone in Iraq said, and we, as Australians, I hope would be proud to be behind any move to get rid of Saddam Hussein and his detestable mob of people, if we want to use that term, who seek to run Iraq.

Mr CAICA (Colton): Saddam Hussein is a ruthless dictator and, in fact, he should have been removed a long time ago. I agree with much of what some of the speakers have said, I disagree with what a lot of other speakers have said, and I am somewhat confused by what a lot other speakers have said. However, I am respectful of their views and I think that points to the fact that there are a variety of views. They are views that are being expressed throughout the world, and that is some of the difficulty we have in grappling with this problem.

As I said, Saddam Hussein is a ruthless dictator. We have said that, and the member for Enfield made a very good case that he is guilty of that charge. What I do find curious is that, suddenly, in the year 2003, the US and its coalition of the willing (which includes our nation) suggests that the time is right. The time is right now to remove Saddam Hussein. I suggest that the time has been right for the last 10 years. I am very curious as to why, suddenly, the time is now right, and I will come back to that point a little later.

I say from the outset that I am not anti-American. I quite like the American people and I have many friends who are American. However, I am not a fan at all of the US position, the government's position, on unilateral action against Iraq outside of UN support, and I will come back to that point later.

I am opposed to any military action undertaken by the US and its coalition outside of that UN support. In addition, I would say that if the UN does support action against Iraq it would need to be coordinated under the command and control of the UN—that is, not just sanction the action but also not to let the coalition of the willing and eager go in there without the UN being under strict, direct command, control and coordination.

The member for Waite's earlier comments were interesting in relation to some of the flaws that exist with respect to the UN and the manner in which it undertakes action throughout the world. I believe that the UN has a very important role to play in the future of world peace and if, indeed, the United States and the coalition of the eager go in there without UN sanctions, I believe that will have a very bad impact on the future of the UN from which it might never recover. I fear that if the US goes in with Australia and its other coalition members the civilian loss of life and the collateral damage will be unbearable for the rest of the world to tolerate, and particularly unbearable for those people who will be subjected to it.

I reinforce the earlier point made by the Attorney-General, that if, indeed, there is action against Iraq something needs to be put in place to replace that regime. Given the ethnic tensions in that country, it will be a blood bath unless there

is some structure to replace what is there. However, that again needs to be a structure that needs to be undertaken by the UN and worked through by the nations of the world (not imposed on it) by those that will or may take unilateral decision against Iraq.

I will get back to the curious nature of the timing of the US call for action, action that I believe will be taken unilaterally. I do not believe that the security council will change its position. Those nations that now oppose action of a unilateral nature will continue to do so.

I said earlier that action to remove Saddam Hussein could and should have been taken earlier. Such action should have been conducted under UN sanctions many years ago, and therein lies a dilemma with respect to the hypocrisy of going in at this time without UN backing. This debate, about the UN and its role, goes beyond this parliament. The member for Unley was correct earlier when he said that, although we are all going to make comments on this matter, nothing we say will make any difference. There is inevitable trouble for the Middle East and that inevitable trouble, with respect to Iraq, will be played out. The UN is obviously the proper vehicle for world governance, but I do not believe at this time that the governments of the world, particularly those of first world countries, are willing or committed to devolving decision making to a world body.

So why is now the right time? Why is it that some are ready and eager to take action against a regime that should have been removed by the world's governing body with the collaboration of the countries of the world some time ago? Has not Iraq had chemical or biological weapons since the early or mid-1980s? Have those chemical weapons not only been produced by but supplied to Iraq through those first world countries, including the US and Britain, and by those nations who support unilateral action and those who oppose unilateral action? Many people have profited through the arms proliferation that we now see in Iraq. Iraq is not isolated in this case. Many nations around the world have had their weapons supplied by those countries and industrialists who profit out of the supply of such weapons. Where was the outcry when Iraq was using those horrible weapons against Iran and their own Kurdish people in the 1980s? If there was ever a time to go in and do something about it, it was as much then as it is today.

What is different today? What is it that we are being told is different from that which has occurred over an extended time? Is it that 11 September has changed the attitudes of some countries so that today an environment has been created against Saddam, so that by removing what is a horrible regime in Iraq we will rid the world of terrorism? I do not believe that will be the key case. If the United States and other countries go in unilaterally, that will be the precursor to a level of terrorism that we have never seen before. It will compound the problem. There is no evidence, it seems, of a link between Osama bin Laden and al-Qaeda and Saddam Hussein. In fact, there seems to be greater evidence of a link between Osama and al-Qaeda and other nations than with secular Iraq. Is it that the countries that are being terrorised—Australia and the United States at Bali and on 11 September—need a scalp? There is no evidence of that link.

If it is not about disarmament, given the fact that disarmament of Iraq has gone a long way over many years through the UN process, if it is not about the weapons inspectors, because I understand that they are going to have greater access than they have ever had in the past, what is it about? I refer to a slogan that was on the wall of the office a former United States president: 'It's about the economy, stupid'. Maybe it is about the world economy (I think that point has been made) and, if not the world economy, certainly the first world economy. I am not a supporter of the US government's position in this matter. I am a supporter of there being a united approach by the world's countries under the auspices of the United Nations to take action not just against Iraq but all other countries that have chemical and biological weapons and other weapons of mass destruction.

Iraq is not isolated with respect to the weapons that it has stored.There are an enormous number of countries that have such weapons and I think that the United States, to a very great extent, can become a much greater leader of the world. It is the only true super power left, and its energies ought to be placed behind the United Nations to create a situation where the United Nations will really become a representative world governing body. I do not hold out any great hopes of that occurring if the United States undertakes unilateral action.

One of the things I learnt at school—and I do remember it—was about Commodore Perry and the gunships off Japan in 1854, I think it was—'Open up your doors or we will blast them open.' I think that gunboat diplomacy has continued for some time, not just by the United States but by other countries. That type of gunboat diplomacy has only led to some of the wars that we saw last century, especially the first and second world wars. Gunboat diplomacy does not work and the United States and other nations can best put their energies towards making the United Nations a proper functioning governing body.

Mr SCALZI (Hartley): I, too, wish to make a contribution on this very important issue. I did not attend the peace rally on Sunday. I was with the Attorney-General at a function with the Australian Turkish community. I attended that function to acknowledge that the Islamic community, and one of the smallest groups in our multicultural society, is just as important as other groups in South Australia. Like the Attorney-General, I was touched and enriched to see that, as Christians and as Muslims, as Australians from diverse backgrounds, we could share a meal together, and that is the essence of our society and that is what we need to protect and promote.

Where are we at? We are not at war at present. We have not declared war. The United States has not declared war. Britain has not declared war. France and Germany have reservations and want only to act under UN sanctions. There has been a build-up of US troops and British armaments and Australia has sent a contingent to the area. However, war has not been declared, and our Prime Minister (John Howard), Tony Blair and George Bush, although they have been prepared, have continuously stated that they want the United Nations to sanction action against the dictator.

We can argue about whether we should have dealt with Saddam Hussein before, but we cannot dispute the fact that Saddam Hussein is a dictator, no less than past dictators, and the atrocities that he has committed against his own people have been well documented by Amnesty International. I will not go through those again. There is no question that he is a ruthless dictator of a totalitarian regime, and what people seem to believe is that, because he is a secular dictator, that is more appealing than a dictator who favours fundamental religion. However, totalitarian regimes are just as ruthless as any fundamental dictatorship because it does not matter where the philosophy comes from, when you do not have

respect for the individual, when you do not have respect for diversity and you cannot accept it, then that regime is evil.

The differences between the major parties in Australia are also well documented. Both Simon Crean and John Howard want to support action against Iraq but Simon Crean wants UN sanctions. John Howard, Tony Blair and George Bush do not want to abdicate their responsibility to protect their communities just for the United Nations. That is the difference. It is a matter of degree. As the member for West Torrens said, I respect any individual who is a conscientious objector, who abhors war and who would not support war at any cost, but if you are not in that category then it is only a matter of degree.

I am a peace-loving person. I belong to Amnesty International, and I hope and pray that there is no war. I was fortunate to be invited to the 51st National Prayer Breakfast in Washington DC on 6 February while I was in the US from the 2nd to the 10th of this month. I met with congressmen and senators, and I agree with what the member for Colton said that not all Americans are warmongers. At that National Prayer Breakfast I observed goodwill and the fellowship of people who want peace. I talked to some of the congressman who said—you might not believe this—that George Bush does not want war, that it will not be good for him politically. So, we do not know all the facts.

Today I attended the 61st anniversary of the bombing of Darwin. I was very touched by the recollections of Dr Kym Bonython, the patron of the Darwin Defenders. I realise today that we were not aware of all that went on, that it took decades for us to find out what happened in Darwin, how many were killed and how we were invaded. I listened very carefully to the member for Waite, who has much more knowledge and experience in this area. I cannot judge. I prefer peace, and I would have marched in the peace rally had I not been attending this other function.

The Hon. M.J. Atkinson: Which function was that again?

Mr SCALZI: The Attorney-General has well documented it. I prefer that we do not have a war and I prefer that we act under the sanctions of the United Nations. However, we have given our leaders, whom we elected in a democracy, a mandate to decide. We might disagree, and I respect every individual for expressing their opinion. This is the beauty of our democracy. As a member of state parliament, I cannot influence what is going to happen in Iraq; I can only express my wishes. I cannot stop the war if it does take place, but what I can do is not only think globally and march but act locally.

We live in a multicultural society. Any conflict of this nature is certain to precipitate tensions within our community. I believe it is our responsibility to fight the war of suspicion within our community, to fight the war of division, and to fight those who would promote prejudice against Australians from an Islamic background and those who would promote uncertainty and fear which would not only affect us as individuals but destabilise our great society. I thank the government for giving us this opportunity to express our views in this important debate.

The Hon. P.F. CONLON (Minister for Government Enterprises): I move:

That the time for moving the adjournment of the house be extended beyond 10 p.m.

Motion carried.

The Hon. P.F. CONLON: I must admit that it is with some relief that I can say that it is not the responsibility of this government to make a decision to send Australians to war. We make decisions as a government, when we are obliged to cut a service or raise a tax, that impact on people's lives. We agonise about those, but I can only begin to imagine the agonising that one must go through before committing others to risk their lives or to take lives. That is not a decision that I would enjoy taking. I stress this point, because while some might say that we should close our mind to such things as the finer distinctions of international law and intervention and that we must defend the oppressed wherever they are, it is not we who will do that, it is not we who will pay that debt: we will be comfortably ensconced on these green benches. It will be the youth of our nation whom we commit, and we must weigh that responsibility carefully.

If I had to make such a decision, I would want to know a number of things. I would have to be sure that I had the support of civilised thinking people around the world. I would like to be convinced by those people that all other options except sending people to die and take lives had been exhausted. My concern is that that process has been far from undertaken. I would find it very hard to make a decision to have people kill and be killed without having done that. I am not expressing an anti-American sentiment—I have enormous regard for the American people from both my contacts with the New York detectives at the time of the September 11 commemoration and also the history of the United States, its people who paid a price in blood for its very birth and who in the American Civil War paid an enormous price in blood fighting for some lofty principles.

The truth is that what concerns me is that we are rushing to support the United States when we have not secured the support of the rest of the civilised world. The problem I have with that is that the United States does not need us for military intervention: it needs Australia to shore up its case before the rest of the world. I prefer that that case be properly made before the United Nations, not simply shored up unblinkingly by our government, because, as I say, we will be committing our people to kill and be killed.

Whilst I have great respect for the United States, we have to acknowledge that the United States is not always right. It was not right when it armed Iraq. It was not right in my view when we followed them to Vietnam. It has been right on other occasions when it has acted unilaterally, but I urge people, before they take a decision to commit the lives of others, that they be certain that the United States is right. The best security for that is the United States convincing other civilised nations around the world. I, too, abhor the Iraqi regime. It breaks my heart that such a wonderful ancient culture and history is hostage to an evil tyrant. I support wholeheartedly the move by the world to bring down that regime, and I sincerely hope that the world, having achieved that, will move on to some of the other oppressive totalitarian regimes.

I have long believed in an international system of law. I find it hard to understand how any lawyer having the rule of law as the basis of their ethical and social reasoning could ignore a requirement to act in accordance with international law when dealing with matters far beyond individual liberties and the life and death of many tens of thousands of people. I am sure that no lawyer, properly informed, could think of those matters as being merely fine distinctions.

I will close by saying that I believe that if the rest of the civilised world does finally come to the conclusion that there

is no option but war I would reluctantly be convinced of that. But, as I say, I have enormous respect for the quality of the United States and their opinions, and I have respect for the opinions of the rest of the civilised world—the French and the Germans, those who have offered alternative approaches—and I think that, before we commit our children, we must listen to those approaches.

Mr HANNA (Mitchell): There is a lot that has been said that I agree with. War is abhorrent. Saddam Hussein is a tyrant. The USA is likely to go it alone and invade Iraq, and Australians will fight with US troops, taking part in killing thousands of innocent Iraqi people. However, a number of diversions have also been discussed in the debate so far. Much has been made of terrorism. This invasion of Iraq that is proposed has nothing to do with terrorism.

The member for Waite went off on a complete tangent when he discussed so many past acts of terrorism in the world. It is not about that: it is about occupying Iraqi territory. It is not about regime change, either. There are so many regimes in the world—from North Korea to Zimbabwe—which are disgusting and abhorrent to any civilised, democratic thinker. It is not about regime change. The US has already shown that they care nothing for the Kurdish people, for example. When the Kurds were being massacred just after the last war, the US did nothing to intervene, and much innocent bloodshed took place. So, it is not about regime change: that is not what is driving the current US drive to occupy Iraqi soil.

It is not about weapons of mass destruction, either. There is no evidence of the chemical, biological or nuclear weapons that the US has teased us about. The evidence has not been forthcoming. What there has been has not been convincing. We should be waiting for the UN inspectors to report on that issue after a full and thorough investigation.

Even to talk about the UN is something of a diversion, because it is quite clear that the essence of the case is that the US empire wishes to expand into the Middle East to gain control of that region and, particularly, to benefit from the oil and extraordinarily rich mineral reserves that lie under Iraq and, perhaps ultimately, Iran. The US is heavily dependent upon oil, but it is not just a matter of the US economy being dependent upon oil: there is ample information on the web which details the personal interests of key US government figures such as the Bush family, Condoleezza Rice and Rumsfeld, all of whom stand to gain personally in an immense way if this war is prosecuted.

So, why would Australia be involved? Perhaps Australia is, at a government level, feeling insecure, and that is perhaps why there is a sense that Australia has to be a satellite of the United States. England was our mother and protector, and it seems that, since the 1960s, we have looked to the USA to fill that particular role. However, what false protection it is when, at the same time, they are trying to screw us down in every possible way when it comes to trade so that they take advantage of our farmers through the protection that they give to their own.

I suppose it is because, in a way, Howard expects to be pinning medals on heroic SAS soldiers in just two months' time, with the concept of a short war and a long occupation such as happened in Afghanistan. But, the short war will be at the cost of hundreds of thousands of innocent Iraqi people: the long occupation will be entirely to the benefit of the wealthiest of the elite in the United States of America.

However, Howard, our Prime Minister, also has another reason, and that is to induce a climate of fear. He won the last general election by creating a climate of fear in Australia in relation to Middle Eastern people by and large coming to our shores on boats, so many of whom were genuine refugees. He will probably win the next general election on a fear campaign. To do that, he needs to employ the concepts of terrorism and alienation, and devise an enemy for us to knock down. In this case, that enemy is Saddam Hussein, who is only one of dozens of dictators around the world. It is a travesty of moral leadership to rule this country by fear and win elections based on lies.

Mr WILLIAMS (MacKillop): I first say that I am rather intrigued that this house is debating this issue tonight—indeed, at all—because it has nothing to do with our jurisdiction, and several members have alluded to that. On a very rare occasion I have a great deal of sympathy for Sandra Kanck in another place, who complained that she wrote to the Premier last week seeking time to debate this issue in the South Australian Parliament. But I note with interest that the Premier did not agree to that request until after both Sunday's march and Rex Jory's article in, I think it was, Tuesday morning's *Advertiser*. I mention that because it confirms what the member for Mitchell said some weeks ago about this Premier and this government.

Having said that, I will take a few minutes to give my thoughts on this matter—not that it will make any difference anywhere because, as I said, it is not within our jurisdiction. Like the member for Elder, I guess I feel quite comfortable that I am not charged with the responsibility of making this decision. When I contemplate what I might do if I was charged with that responsibility, I keep thinking of the most important role that I have had in my life, and that is as a parent. I have been weighing up whether I would enjoy my children and grandchildren living in a world which is relatively safe, such as the one that I have enjoyed in my life to date, or whether I would sacrifice one or more of my children to ensure that their children, their grandchildren, their friends' children, etc., would be able to enjoy that world. Many of us here have relatives, parents, uncles, aunts, grandparents, etc., who have paid the extreme sacrifice to protect the world that we enjoy today.

It is very easy for us in Australia to stand back and say, 'Why should we go and fight somebody else's war? Why should we fight against some petty dictator halfway around the world?' It is very easy for us to take that attitude, because the reality is that the risk to us—certainly here in Adelaide, and probably in most of Australia—is very small if we do nothing. But, the world is a very different place from what it was only a few years ago. The world is a very small place, and I think we have to recognise that we are citizens of the world, and being citizens of the world carries responsibilities and obligations not only to protect what we enjoy here in Australia but also to ensure that people on other parts of the planet also enjoy the sort of lifestyle, freedoms and liberties that we enjoy.

If we bury our head in the sand and do not fulfil our obligations, I am absolutely certain that we—and I say 'we' but it may well be our children or grandchildren—will pay the price. 'There is no safety for honest men but by believing all possible evil of evil men': that was a quote of Edmond Bourke, a famous Irish statesman who lived in the mid to late 1700s.

The Hon. M.J. Atkinson: A splendid chap!

Mr WILLIAMS: A splendid chap, as the Attorney says. I have not heard all the contributions in this place tonight, but I do not think that anybody here does not agree that Saddam Hussein is an evil man. Can we afford to stand by and do nothing? Edmond Bourke also said, 'All that is necessary for evil to succeed is that good men do nothing.' Can we afford to do nothing? Might I also quote Albert Einstein, who put it like this, 'The world is a dangerous place not because of those who do evil but because of those who look on and do nothing.' We in Australia cannot afford to look on and do nothing; we cannot afford to stand by and see evil flourish.

We know that evil is occurring not only in Iraq but in other places around the world. We should be imploring the UN to take the appropriate action; we should not stand back and say that we will do something after the UN decides. We should be forcing the UN to make a decision and, if the UN does not have the guts to make a decision, it is finished. I would hate to see the day when the UN is finished. The world today needs a strong and effective UN. However, if we are going to allow the UN to turn a blind eye to evil in many corners of the world, it will be a very dark future for all of us. I repeat: I do not think that Australia can afford to look on and do nothing.

Ms BEDFORD (Florey): It is my honour to represent the people of the seat of Florey in this place, and the people of Florey are not unlike the people of many other electorates in Australia. Their views range from the feeling that war is the only answer to the current impasse, that war under the auspices of the UN is an unfortunate consequence of the non-compliance of the Iraqi dictator who will not declare what weapons of mass destruction, purchased from western powers, he has left over from the Gulf War, to those who feel that war is not an option and yet recognise that appeasement did not work in the past and so will probably not work again.

One of my constituents, Ruth Russell, was featured on the front page of the *Advertiser* this morning. She has now left to become part of the world-wide group of people who will become a human shield for the innocent civilians in Iraq who have suffered so much under the deprivation of sanctions for 12 years that they seem to be impervious to the trouble that may be only weeks away. We have many churches in our area and a mosque—the very mosque where David Hicks took instruction in the Muslim faith. David attended a local high school, coincidentally, the same one attended by a much loved friend, Andrew Knox. Andrew died in New York's World Trade Centre on 11 September, and so many threads of the current crisis are very close to my heart and to those of my constituents.

The largest ethnic group in my electorate is the English, and so many of those good now Australians remember the horror and hardships of the Great War and the Second World War. My father returned a troubled man from the Second World War after active service in the Middle East and New Guinea. He died because of a war-induced brain tumour. His sister, my aunt, married an American war pilot and now lives in the US. I have never met her. The father of my children served in Vietnam and was sprayed with Agent Orange. Many Vietnam veterans were irreparably affected by chemicals in that conflict, and our son suffered a stroke at the age of eight years. Many of the men who served with my son's father had problems and children with problems, and we know the ongoing health problems that veterans of the Gulf War face.

Because of these links, I appreciate the sacrifice and dedication of our servicemen and servicewomen who do their job on the orders of elected officials. I attend as many ceremonies as I can to acknowledge our defence services and to support our men and women who serve us in peace time as well as whenever needed, East Timor being the most recent conflict where they served with distinction—and our fighting men and women always do that. I was also at the Darwin Defenders' ceremony this morning which remembers the first time Australian soil was directly attacked. We are lucky that at present war will be again in the Middle East and far from us, but that may not always be the case.

I have had the pleasure to meet Peter Cosgrove and see how he is revered by all whom I have observed him with, defence personnel and civilians alike. I have the feeling that probably all who are enlisted would feel secure in following him over the top of the trench, so to speak. That he commands such feelings is inspiring. How I wish all our leaders did the same. Our leaders do need to be inspiring now as we face this crisis. We look to our leaders to find the way around a conflict of such proportion knowing that in the holocaust that will be unleashed, enormous numbers of people will perish— civilians like the people of Florey, men women and children, going about their daily lives.

In the event that hostilities start in Iraq, 30 per cent of children under five will be at risk of death from malnutrition if nothing else. With 4.2 million children under five in Iraq, this represents 1.26 million children all under five who will perish. A collapse of essential services in Iraq could lead to a humanitarian emergency that will be beyond the capacity of the UN and other aid agencies to meet. The 1.45 million people who will flee Iraq, provided they survive the first strike, will become refugees and asylum seekers. We all know the trouble those displaced people face when they try to find a safer place to settle—quite different from the future faced by the refugees of the Second World War or those who sought a better way of life.

These statistics do not take into account the fighting men and women who will perish in friendly and enemy fire; some of these men and women are Australian. They have already left our shores by sea and air. I was privileged to be present at the ceremony that farewelled the first Air Force personnel at Edinburgh. That day, I was struck by the vision similar to the scenes of the Second World War that are so familiar that I thought, 'How little the world has changed.' Despite the enormous calamity of war, we seem not to have learnt how to prevent it. The might of the western forces now faces up against the arms and chemical technologies that we have sold to other countries, and they are now aimed at us.

I marched on Sunday as I have marched in many rallies in Adelaide, this one being the biggest I have ever seen. Each year on Hiroshima day it is a time I remember especially and most vividly the problems that war brings to us all. Hiroshima was the first use of a weapon of mass destruction of which I ever became aware. Unfortunately, very few people march in Adelaide on Hiroshima Day to remember the 70 000 killed instantly and hundreds of thousands of civilians who died later—some say needlessly—at the end of the Second World War. Of course, that does not take into account the proportionally similar numbers of people who died at Nagasaki, the second example of collateral damage.

Around 100 000 people marched in Adelaide to try to tell their leaders that they want another alternative pursued to disarm Iraq. Of course, this is only part of the crisis the world faces, for terrorism lurks as the greatest threat to our peaceful

existence. Wherever a person is aggrieved and willing to punish others because of the displeasure or desperation they face—real or unreal—we and our way of life are at risk.

At the rally Brian Deegan, the father of Josh Deegan, spoke. Josh unfortunately died in the Bali bombings, and his father's courage, forbearance and words have moved me more than anything I have witnessed for a long time. For a man who has experienced life's worse nightmare, he is still able to think rationally about the futility of war. He had a message for our nation's leaders, and the message was, 'Find another way.' In the 'Let's look out for Australia' campaign literature our Prime Minister writes:

> Australia is a strong and vigorous democracy. We value our individual rights and also respect our obligations to other Australians, because we know that only by doing so can our security, prosperity and freedom endure.

The Prime Minister's $15 million campaign to protect our way of life, along with government policies and action, is, as Brian Deegan said, actually making our way of life more vulnerable to outside acts of terror and contributing to the curtailment of our own basic human rights within Australia. Ironically, the war on terror has contributed to the dismantling of democracy throughout the democratic world from the leaders and legislators of democratic nations themselves and not by terrorists. Rather than actively seeking to replicate the foreign policy of other nations and promote methods of war, Australia should be at the forefront, invoking peace through democracy and liberty, and combating poverty, oppression, ignorance, illiteracy, poor health and sanitation, within Australia and beyond our borders, and actively seeking to promote a universal respect for human rights, international law and conventions. Only in this way will we truly experience and live in peace.

Mr VENNING (Schubert): I am confident that all members of this house share my reservations about any military conflict, particularly those involving Australian armed personnel. However, unlike many individuals in the community, I acknowledge that, on occasions, the global community is presented with no real alternative to war. I believe that it is in this environment that we find ourselves currently. I certainly appreciate the speeches we have heard this evening. It has been said that it is unusual that we are debating this matter in the South Australian parliament when it is a federal issue. Not since Federation has this state involved itself in defence and any defence decision.

It has been a very good debate this evening. I particularly commend the member for Waite. His is one of the finest speeches I have heard in my 12 years in this place—

Members interjecting:

Mr VENNING: I am not asking members to agree with the member for Waite, but the compassion and the effort he put into that speech has to be applauded. I also enjoyed the speech of the Attorney-General. I thought he put much thought into it. I agreed with most of what he said but, at the end, he did not say what he would do. He did not put it on the line, whereas I believe that the member for West Torrens did. This affects us all. I spent two years of my life as a trained soldier and that is why I appreciate the member for Waite's position. Do members appreciate the rank and the success of the member for Waite in our armed forces? I marvel that we have a former lieutenant colonel of the SAS sitting in this house.

We all have children. I have three children who are all within the age and one who is a trained captain in the armed forces. This affects all of us. It is not just politics and it is not just mouthing platitudes: it is a very big decision that we make. There is another divisive issue regarding this matter, even amongst those who believe that the regime in Iraq must be put down. Some argue that the attacks should be launched only if the UN gives its reluctant approval. Others believe that leading countries of the world such as Australia have certain duties.

I am not confident that the United Nations will make that decision, even if the proof is there. I am sorry: I am not confident. I am also sorry that I have no confidence in the French, and partly the Germans, to side with us and make the decision that they know they must make. History will prove that the French have never been up front in coming into these confrontations, but who has always got them out? We need to look at history to see what has happened over the years. In this instance, it makes me quite cross and sick to realise the commercial interest that the French nation has in this and it is a shame that they have put that in front of the protection of Europe as a whole. What worries me is that their decision could break the alliance that has existed for so many years and it could divide Europe. We are already hearing terms such as 'the old Europe'. I have grave concern about this and I wonder where we will go. I say again that I very much appreciate what has been said in the house tonight. Members have put a lot of time, thought and heart into their comments tonight.

I also want to say how much I have appreciated the strong stance taken by our Prime Minister. It cannot be easy for a person who is nearing the twilight of his career to face a situation such as this—

The Hon. M.J. Atkinson interjecting:

Mr VENNING: No, it could be one year: it could be five years. I personally hope it is four more years—I really do—because I believe that he is the only leader whom we have in Australia who could handle this situation. I am just so pleased it is not Mr Crean. I say to the Prime Minister, 'We thank you very much for the courageous stance you are taking, and I firmly believe that the majority of Australian people are supporting the position you are taking.' I hope with all my heart—as I think the Attorney-General said—that, if the war does come about, on our entering the country the regime will collapse. This is certainly one of the most evil regimes of all time. It is mirrored only by Hitler's Nazism.

The member for McKillop said that to do nothing in this instance is almost as big a sin. To know what is going on and to sit here and just talk about it and do nothing is a disgrace. It has been very interesting to be involved in this debate this evening as a member of the South Australian parliament. I wish all the people who are in the armed services well and God speed that, if there has to be conflict, it will be short and they will all return home to Australia safely. It would be easy to sit back and not get embroiled in such international matters, but certainly it would not be a very brave move. History will record the brave deeds that Australia and its allies engage themselves in and, in due course, it will protect our families, our freedoms and the nations of the world from the forces of evil. If members are in any doubt about that, why were we ever in Gallipoli?

The Hon. M.J. WRIGHT (Minister for Transport): There is widespread support globally for the recognition of each country's sovereign rights, including their right to determine their own issues of domestic governance and internal affairs. It is only when a nation significantly infringes

the rights of others, particularly beyond its own borders, that attention is drawn to the need for intervention and action by other countries. This is well highlighted in our own region by the response of governments of various political persuasions across the world and in Australia to the invasion of Cambodia by Vietnam in December 1968. Although the horrors of the Pol Pot regime were well documented and accepted, the unilateral invasion by another country was resoundingly condemned and the occupying regime not recognised.

The analogy to the situation in Iraq cannot be ignored. Similarly, the invasion by Iraq of Kuwait was responded to with widely supported and multilateral military action sanctioned by the United Nations. Whether the combined gulf forces should have continued further into Iraq against that regime is now a matter of historical debate. The fact is that they did not and no justifiable action can be taken now to redress that policy decision. What they did do, and indeed what Australia has helped them to do since 1991, is enforce sanctions. Iraq's treatment of its own population is well documented and reprehensible. However, Iraq is not alone in treating its own people reprehensibly.

We simply cannot unilaterally invade selected countries whose internal governance is abhorrent to us. This is not to deny that there may be occasions when a regime's internal conduct is so reprehensible that international intervention is warranted. However, such action is fraught with danger and it is therefore critical that significant safeguards are in place before such action is taken. The primary safeguard, of course, is the United Nations. It is a body whose standing and importance has continued to grow in recent times. For nations to act now without United Nations' support is to put at risk the ongoing authority and status of the primary world body for international cooperation and governance.

Actions by significant nations to undermine the authority of the United Nations put us all at risk of a return to the international affairs circa 1900. Have we forgotten the painful lessons of the first half of this century? Australia played a central role in establishing the United Nations in reaffirming on a permanent basis the value of the alliance formed in such torrid times. The repudiation of our solemn commitment to the United Nations and all member nations and our commitment against taking matters into our own hands except in defence place us at risk of a return to the diplomacy of another age.

The women and men of the Australian defence forces carry out their duty admirably. I am sure that they have the support, respect and gratitude of all in this place. I urge all Australians to remember that it is not the young men and women of the Australian defence forces who make the decisions to go to war. Let our defence personnel be certain that, as much as we may question our nation's leaders, we give them our wholehearted support and hope to see them home again safely and swiftly.

Ms BREUER (Giles): I will be extremely brief. I am a mother of two children, having a 27 year-old son and a 16 year-old daughter. So, I am a mother and I speak for many mothers in Australia and in this world. I would break my son's legs and my daughter's legs before I would let them go to fight a war that was not sanctioned by the United Nations.

Ms CICCARELLO (Norwood): In view of the time, I will also be very brief. I would like to repeat what I said at citizenship ceremonies in my electorate on Australia Day, namely, that war is not inevitable and that we must explore every avenue possible before allowing our troops to be committed overseas. I think it is a very sad state when such an important decision has been made on behalf of the people of Australia, the United States and other nations, and that a debate has not taken place within those countries. There has been a lot of hypocrisy over the last several years, as was mentioned by other speakers. We just have to observe what shifting alliances there have been between the American nation, some of the Arab countries, Afghanistan, and other countries. Who sold chemicals to Saddam Hussein and trained Osama bin Laden?

It is a very complex situation. Recently, I was very fortunate to be with some friends: Bob Ellis; the Premier; Mike Moore, the former Prime Minister of New Zealand and former head of the World Trade Organisation; and Minerva Nassar Eddin, who happens to be in the gallery and who also happens to have a Ph.D. in Middle Eastern politics. Whilst the debate on the possible war in Iraq was very lively and interesting, I do not know that I would have liked to make a decision on that night as to what would be the right course of action to take.

I attended the demonstration on Sunday, as did many people from my community. They were streaming in on foot because it was difficult to get transport. It did not involve, as some people often say, the usual suspects. People of all ages and backgrounds came into the city to voice their concern at what was happening.

In the 1970s I also took part in demonstrations against the Vietnam War. It was unfortunate that our troops were committed. I live just around the corner from Berry's Funeral Parlour, and I saw the coffins of many of our young soldiers draped with the Australian flag. I would not like to see that happen again and our young troops committed to something like that. I hope that every avenue is exhausted to find a peaceful solution to the situation.

Ms RANKINE (Wright): Over the past many weeks we have heard the Prime Minister often commence his comments with the words 'history tells us'. I have given that some considerable thought as, obviously, have a number of members in this chamber. They have thought about what history has taught us and has told us.

We heard tonight the Premier so eloquently talk about our history in relation to the establishment of and participation in the United Nations. He told us about how we have honoured our responsibilities to this organisation, its member nations and those who have needed our help and assistance in the past.

We also heard tonight the member for Waite talk about the history of the crusades and about the atrocities that occurred. We heard the Minister for Government Enterprises talk about the friendship and support we have received from the United States, but how it has not always been right. We heard, too, from the member for Florey about the devastating bombing of Hiroshima during the Second World War.

I also have vivid memories of my father's history: his terror and his hatred of war, having served in the islands during the Second World War. I have vivid memories of my childhood as the Cuban missile conflict unfolded—of the fear that I had. I did not understand what was happening, but I knew that there was a threat, and I was fearful. I remember the Vietnam War—no fear then, because I was a teenager, and teenagers do not have much fear. It was not until now—until this situation was facing our nation and the world community—that I again felt a similar fear. It is much more

than that fear that I had as a young girl. I now have the fear of a mother, an aunt and a great aunt. I now have the knowledge of the trauma, the effects of war. I saw the cheerful, enthusiastic young men who went to Vietnam, returning traumatised and devastated. I have the knowledge of global conflicts and their impacts on children, on women, on families.

I concur with so many speakers that the regime of Iraq is oppressive, that it has little regard for the rights and value of human life, but that is no excuse for us to disregard human life and human value. It is no excuse for us to take the easy option. One of the things we do know from history is that every war is different and the consequences of every war are different. If we engage ourselves in unsanctioned armed conflict with Iraq, we will be entering a conflict the likes of which the world has never experienced before.

On Sunday, I was one of the 10 million people around the world who marched for peace. I did not march to support Saddam Hussein and his regime, just like I have never marched to support the endless list of other dictators who have ruled and oppressed numerous nations and peoples around the world. I marched to support those who are working around the clock to ensure a peaceful resolution to this conflict. I marched to support all those parents who are becoming increasingly fearful that their children may suffer as a result of an unsanctioned attack on another nation.

In saying that, I obviously identify with Australian parents who are fearful for what lies ahead of us, who fear their children may be called up for armed service or who fear that we may well become a direct target for attack. I also fear for those parents of Iraqi children who have no control, who tuck their babies in bed each night not knowing what the future holds and who wonder as they kiss their babies goodnight whether this will be the night that the bombs will shower down on them and they will have nothing but the roof above their heads to protect them. These people do not have the luxury we enjoy of expressing views, of marching en masse to voice our concerns. They just sit and wait, hoping that the world and its leaders will show wisdom and courage.

I am sure that I am no different from many thousands of Australians. I have many questions that remain unanswered, such as: why Iraq and why now? Why is Iraq the enemy when other nations with despotic leaders have not been? Why, with all the resources, with all the skills of the United States, have they not been able to bring Osama bin Laden to justice? Surely our efforts should be against terror, not against a nation where innocent people will suffer so badly. Let us ensure every avenue is explored before we commit our nation, our young people, to the horrors of a war we cannot even imagine.

The SPEAKER: Order! In accordance with the order of the house, the matter stands withdrawn.

EDEN VALLEY FIRE

The Hon. P.F. CONLON (Minister for Emergency Services): I seek leave to make a ministerial statement.

Leave granted.

The Hon. P.F. CONLON: I apologise to the house for not having a copy to distribute, but the exigency of the matter and the time have forced that upon me. In question time today a question was asked by the member for Schubert in regard to a fire on the property of Mr John Dawkins, the former federal treasurer. The question alleged or implied that two very serious things had occurred: that there had been a cover-up of the incident; and that persons unknown had interfered to ensure that Mr Dawkins was not charged. These allegations are, in the view of the government, calculated to undermine confidence in both the Country Fire Service and the police in their investigation of fires and the treatment of such. As such, I have come back to the house to provide further information at the earliest time.

In regard to the allegation of a cover-up, I inform the house of the advice from the Chief Executive of the CFS, Mr Monterola, that, far from that being the case, because the person involved in the fire was of high profile, the CFS officers were asked to refer any media inquiries to the Chief Executive, which I understand is an ordinary practice where an event is likely to attract the attention of the media. I think it is most unfortunate to have that interpreted as an attempt to have a cover-up, and it reflects very poorly on the high integrity and character of the officer involved in the Country Fire Service.

As to the second allegation that there had been interference to prevent Mr Dawkins being charged, I can offer the most compelling evidence to the house that that, in fact, was not the case. I was advised today that Mr Dawkins was, in fact, charged with an offence arising from the fire. It is regrettable that this has to be paraded through the house, but I am afraid that the allegations raised were of such a nature that they must be answered in order to restore faith in the processes of the Country Fire Service.

I advise the house that I have spoken to the shadow spokesperson for the Country Fire Service about this matter. I have told him what details I have to hand, and I will provide further information. I have indicated to him that it is my view that, in the circumstances, it would be regrettable if Mr Dawkins, who has again offered his resignation, was to do so: we would prefer that he was able to continue with the inquiry. We canvassed our views, and I can say that the shadow spokesperson has agreed with the government on this—that there is no necessity for Mr Dawkins to resign. I will provide any further details to the house as they come to hand. I do hope that the respect for the integrity of the processes of the CFS and the police has been restored.

The SPEAKER: This is a most disturbing turn of events. I trust—indeed, I believe—that I have the support of the entire house without exception that, if Mr Dawkins has been charged, our lack of knowledge of that fact until this moment does not prejudice due process for a fair trial, should it come to that (I have no idea what the charge is), and that it would be unwise for the matter to be further canvassed in this place. Accordingly, should I become aware of any attempt by any member to raise it again, they shall be called to order. It is not orderly for us to usurp the role of the courts or the police.

ADJOURNMENT

At 10.44 p.m. the house adjourned until Thursday 20 February at 10.30 a.m.