HOUSE OF ASSEMBLY

Tuesday 1 April 2003

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

NUCLEAR WASTE STORAGE FACILITY (PROHIBITION) AMENDMENT BILL

Her Excellency the Governor, by message, assented to the bill.

PRIVILEGES COMMITTEE

The SPEAKER: The requirement for a member to raise a privileges complaint as soon as reasonably practicable after the member has noticed the alleged contempt or breach of privilege is relevant in deciding whether or not that matter should have the precedence accorded to it as a matter of privilege. I regret that circumstances of the sitting last evening prevented me from providing the house with this information before the house rose yesterday. However, the failure to raise a complaint as soon as reasonably practicable is in itself not a breach of privilege, provided that the failure does not materially affect the proceedings of the house.

In the subject of the motion brought by the Leader of Government Business, the Minister for Government Enterprises, I am not required to determine whether the member for Davenport failed to do so as soon as reasonably practicable, nor does it require me to determine whether any such failure materially affected the proceedings of the house, but whether on the face of it there may be the possibility of the former, which then might give rise to the need to determine whether or not the latter occurred. In the event, if he failed to let the house know when he first became aware of it, then it has to be determined whether that constituted an act of omission which materially affected the proceedings of the house.

I have to acknowledge that in respect of the first instance I will give the matter precedence and before I resume my seat. Should the house choose to move in the direction which I suspect it might be inclined to, let me make it plain now that the matter that might become the subject of that motion would not be referred in an orderly fashion and cannot therefore be referred to the committee currently sitting to determine a question of privilege in relation to the matter relevant to the Minister for Environment and Conservation. Accordingly, if the minister wishes to proceed with the motion, he may do so.

The Hon. P.F. CONLON (Minister for Government Enterprises): With your leave, sir; is there a time limit? I would like to reflect on what you have said to make sure I understand it correctly.

PAPERS TABLED

The following papers were laid on the table:

By the Attorney-General (Hon. M.J. Atkinson)—

Regulations under the following Act—
Fences—Exempt Land
Rules
Legal Practitioners—Education and Admission Council Rules

By the Minister for Consumer Affairs (Hon. M.J. Atkinson)—

Regulations under the following Act—
Liquor Licensing—Dry Areas—
Henley and Grange
Wattle Park

By the Minister for Environment and Conservation (Hon. J.D. Hill)—

Dog and Cat management Board of South Australia—Report 2001-02
Regulations under the following Act—
Water Resources—Far North Wells Area

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

Regulations under the following Act—
Primary Industry Funding Schemes—
Riverland Wine Industry Variation
Langhorne Creek Wine Industry Variation

By the Minister for Administrative Services (Hon. J.W. Weatherill)—

Surveyors Australia, Institution of—SA Division—Report 2002.

CHILD PROTECTION, SPECIAL INVESTIGATIONS UNIT

The Hon. S.W. KEY (Minister for Social Justice): I seek leave to make a ministerial statement.

Leave granted.

The Hon. S.W. KEY (Minister for Social Justice): The Department of Human Services through Family and Youth Services and a network of foster carers is responsible for the exercise of child protection in this state. Critical decisions about the termination of parental rights and the placement of children in alternative care are subject to high levels of scrutiny and accountability through the Youth Court. However, many of the most vulnerable in our community (such as adolescents at risk, young offenders, those under child protection orders and children with disabilities) have only limited ways of pursuing complaints or reviews of FAYS decisions. Where a complaint concerns an allegation of abuse against an employee of FAYS or a volunteer, it is dealt with through a special investigation by two senior FAYS social workers. Where a complaint involves a foster carer, an additional person from the Alternative Care Service Provider is also involved.

In her report on child protection, 'Our best investment', Robyn Layton QC has expressed the view that such arrangements lack transparency and independence. The report says that such serious investigations must have a high degree of procedural fairness, that allegations need to be recorded centrally, and that FAYS should not be put in the position of both investigating and reviewing its own decisions. The review says:

> Having FAYS in a position of both investigating and reviewing its own decisions leaves it significantly open to criticism of bias and/or cover-up. Certain allegations regarding inappropriate decision making in relation to whether to deregister foster carers have been raised with this Review. A mechanism that provides a proper and fair process and which enables an independent review (appeal) of a matter that is outside of FAYS must be considered as a matter of probity and fairness.

Ms Layton recommends a three-tiered complaints investigation and review process, the first tier of which is a local resolution process and the third tier referable to the Ombudsman's Office. Ms Layton also recommends as a second tier the establishment of a Specialist Review and Investigation

Unit within the Department of Human Services. The unit would be separate from FAYS but would have authority to access FAYS information regarding both complaints in relation to actions by FAYS as well as allegations of abuse or neglect for all children and young people in alternative care arrangements, including residential care and secure care by FAYS employees and volunteers. The unit would be staffed by people skilled in child protection.

I am pleased to announce that the government will proceed with setting up a specialist investigation unit initially for matters involving children in alternative care or residential care through FAYS. At a later stage I would hope to extend the arrangement to cover children with disabilities for whom no formal order of care exists. I have asked Mr Peter Bicknell, the General Manager of the Port Adelaide Central Mission, to conduct consultation with the Alternative Care Advisory Committee, which he chairs. I have also asked him to consult more broadly with organisations such as the Public Service Association and the South Australian Foster Care Association about the procedures for such an investigation unit. I am hopeful that subject to further discussion with all interested parties the unit can commence operation in July this year.

QUESTION TIME

PRIVILEGES COMMITTEE

The Hon. R.G. KERIN (Leader of the Opposition): My question is directed to the Premier. Given the code of conduct released by the Premier and the previous example of the minister standing aside from the relevant portfolio responsibilities in the only precedent for a Privileges Committee in the state's history, will the Premier now reconsider and stand down the member for Kaurna in connection with his responsibilities for environment and conservation?

The Hon. M.D. RANN (Premier): Perhaps members do not realise what the Speaker's judgment was just then in terms of the privileges matter regarding the honourable member—your colleague. Are you announcing that you are standing aside your shadow minister during this process? I notice that you did not stand aside John Olsen during the extensive investigations into the Motorola affair. A Privileges Committee is occurring, and yesterday the Speaker advised us that we shall allow that process to go ahead unfettered. The public of this state expect the Leader of the Opposition and other members not to behave like school children: they want to see a better standard of behaviour.

A Privileges Committee is occurring. We did not insist on a government minister being the chair, as you did before. We have asked an Independent member to be the chair—and that is the difference. Let us remember those constant denials, false denials, absolute distortions and destruction of evidence. Someone mentioned the word 'documents': I would be very careful about the mention of that word, because when I was Leader of the Opposition I remember receiving a telephone call from a senior member of the Liberal Party—

Ms Rankine interjecting:

The Hon. M.D. RANN: Yes, the member for Wright was in my office and was my witness. I was advised to proceed to a house in the inner city area where I did receive documents—880 pages of documents from memory—including cabinet submissions and also crown law opinions. I read those documents, and it is quite clear that members opposite did not, but they wanted me to read the documents in order to bring down the former premier, John Olsen.

Mr BROKENSHIRE: Mr Speaker, I rise on a point of order.

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

Mr BROKENSHIRE: Given your recent instructions to the house, I draw your attention to standing order 98.

The SPEAKER: I uphold the point of order. The Premier will come back to the substance of the question and not debate the same.

The Hon. M.D. RANN: The simple truth is that there is a Privileges Committee inquiry: let it proceed unfettered. It looks as though there will be a Privileges Committee inquiry into the Hon. Iain Evans following the Speaker's announcement: let that proceed unfettered without playing games. If members opposite want me to reveal who was the senior member of the Liberal Party who leaked me those documents, I am more than happy to testify on oath.

DRIVER RESPONSIBILITY DAY

Mr O'BRIEN (Napier): Will the Premier inform the house on the latest statistics concerning young people and road accidents in South Australia, and will he say why he visited the Virginia raceway this morning?

The Hon. M.D. RANN (Premier): Today, I had great pleasure in opening a special driver responsibility day at the Virginia raceway for about 1 000 students from 18 high schools in the northern suburbs. The event was organised and run by the Elizabeth police and the Gawler Road Safety Committee and aims to educate young people about road safety and responsible driving.

Far too many young people are dying on our roads. In terms of road safety over the previous years, South Australia is almost the worst in the nation. I believe that we are only marginally above the Northern Territory, and that is why we must put in place the toughest road safety measures; and those measures, of course, are being debated this week in the upper house. I spoke to high school students today about how this government is making it tougher for them to get a licence. I addressed 1 000 students. I am sure that what I said to them would not have been popular, but the simple truth is that I make no apologies for the legislation.

More than 20 people are admitted to hospital each day following a road crash in South Australia. Each year 150 people in this state alone die on our roads. In the five years to 2001 more than 2 500 people under the age of 25 were involved in fatal or serious car accidents, and that is an average of 500 a year. As the father of two teenage children, I think these are deeply worrying statistics. Every parent worries about getting that knock on the door in the middle of the night from the police telling them that their daughter or son has been involved in a serious road accident or, worse, has been killed.

That has happened to too many families in South Australia, and that is why I want fewer parents to go through that terrible experience. While driver education programs, such as the one I attended this morning, are vitally important, it is equally important to ensure that it is not too easy for young people to gain a driving licence. Gaining a driving licence should be seen not as a right but as a responsibility. The parliament is now considering a range of changes to road safety laws, but among them are changes to laws that will

require new drivers to hold a provisional licence for at least two years or until they turn 20.

So, if we can get this legislation through the upper house, we are making young people spend longer on their P plates. We are not taking their licences away, we are not preventing them driving: we are simply putting them on a restricted licence so that there is zero tolerance for drunken driving and zero tolerance for speeding.

Mr Brokenshire: Retrospective, is it?

The Hon. M.D. RANN: It is not retrospective; the honourable member would know that. I understand that there is controversy in the upper house about this particular aspect of the road safety legislation. I make an appeal to all members of the upper house to vote for our children's safety and our children's future. This matter should be beyond party politics. This is about putting in place restrictions that do not prevent our children driving, but simply makes sure that they are prohibited from any drink driving or from any speeding. Of course, not only young people but also older people need to realise that showing off in fast cars and being a hoon on the road is not a joke. This is not something that just the young do: there are hoon drivers of all ages.

Members interjecting:

The Hon. M.D. RANN: Is this a confessional across the other side? Apparently, the honourable member has not been stood aside from his shadow ministry, and so be it. Let the processes proceed unencumbered. I want to make clear that we are not telling young people that they cannot drive, but we want a learner driver to complete a minimum period of six months before the date of the practical driving test before they progress to P plates. Once a person has their provisional licence we want them to hold it for two years or until 20 years of age, whichever is the longer.

The new requirements will not apply retrospectively, and I think that is very important. It will not affect those drivers currently on P plates. We want young people to spend longer with their P plates to develop their driving competence and experience without exposure to higher risks. South Australia, Western Australia and the Northern Territory are the only states where young learners can progress to provisional licence in less than three years. Experience elsewhere proves that longer periods of restricted licence driving results in fewer crashes. I commend the road safety program this morning. I urge every member of the upper house to vote as though their children's lives depended on it.

YUMBARRA CONSERVATION PARK

The Hon. W.A. MATTHEW (Bright): What advice did the Minister for Environment and Conservation receive from his ministerial environment adviser, a former South Australian campaign coordinator for the Wilderness Society, relating to the possibility of the government's reissuing a second mining exploration licence for Yumbarra Conservation Park? At the last state election the Labor Party opposed the reissuing of a second licence for Yumbarra, whilst at the same time the Liberal Party supported and still supports the issuing of a second such licence.

The Hon. J.D. HILL (Minister for Environment and Conservation): I have answered a couple of questions in relation to the Yumbarra Conservation Park. As I stated prior to the election, and as I restate now, the Labor Party's policy in relation to that is a relatively straightforward one. We said we would reproclaim the park as a singly proclaimed conservation park if two things happened: first, that the existing lease proved to be fruitless; and, secondly, if the lease had expired. As members would know, the existing lease with, I think, Dominion has expired. The advice I get is that the Dominion exploration was not fruitless. Therefore, the Labor government's position is that we would not seek at this stage to singly proclaim it. The sources of my advice are up to me.

DENTAL SERVICES

Ms RANKINE (Wright): Will the Minister for Health advise what initiatives the state government has undertaken to improve dental services for children in the Salisbury area? Will she also say whether waiting times for concession cardholders have fallen over the past 12 months?

The Hon. L. STEVENS (Minister for Health): I thank the honourable member for this important question. A $2.2 million public polydental clinic will be built at the Hollywood Plaza shopping complex and be conveniently close to other community services and shopping facilities.

The Hon. Dean Brown interjecting:

The Hon. L. STEVENS: To respond to the interjection of the shadow minister, this was approved—

The SPEAKER: Order! Interjections are out of order and responding to them is even more so. The minister will not go there.

The Hon. L. STEVENS: The clinic will have 11 state-of-the-art dental chairs, five chairs for children and six for adults, and people will be treated with the most up- to-date dental equipment and instruments. The highest infection control standards will also be applied. This new facility will provide the highest quality dental services to around 20 000 children and eligible adults in one convenient location. It is expected that the clinic will be completed in September this year—another program funded by the current state Labor government, I am pleased to say.

Proper dental care for everyone is a priority for the government, and an extra $8 million over four years has been allocated to improve dental care services for pensioners and other disadvantaged South Australians. I am also very pleased to be able to inform the house this afternoon that waiting times for restorative care fillings and preventative treatment are reduced from a peak of 49 months in mid 2002 to 37 months by the end of February 2003. Whilst this is a significant improvement, there remains much to be done, and we are committed to continuing to improve these services.

COFFIN BAY NATIONAL PARK PONIES

Mrs PENFOLD (Flinders): Will the Minister for Environment and Conservation advise the house what briefings, written or oral, he received in relation to his decision to relocate the Coffin Bay ponies, and did any of these briefings recommend against the removal of the ponies?

The Hon. J.D. HILL (Minister for Environment and Conservation): I am glad that the pony issue is galloping to the top of the agenda today. I know that the member for Flinders has a particular interest in this issue. As I have said in this house on a number of occasions, I took advice from a range of sources, including people—

The Hon. W.A. Matthew interjecting:

The Hon. J.D. HILL: The one trick pony over there—the member for Bright! I took advice from a range of sources in relation to this, from my department and from people in the local community.

An honourable member interjecting:

The Hon. J.D. HILL: Some said they support it and some have said they oppose it. That is a reality of life when you have to make decisions. I made a decision based on my own judgment about what was in the best interests of that park and the best interests of the park system. I know that there are people in the member for Flinders' electorate who are very much opposed to the removal of the pony. Equally, there are people in her electorate who are very much in support of the decision that I made.

GREENING AUSTRALIA

Mr RAU (Enfield): My question is directed to the Treasurer. In response to the Leader of the Opposition's question from yesterday regarding Greening Australia and its liability for payroll tax in South Australia, what progress has been made on this important matter?

The Hon. R.G. Kerin interjecting:

The Hon. K.O. FOLEY (Treasurer): I am providing to the Leader of the Opposition an answer. If he would rather that I put it in the post for him, I am happy to do so.

The Hon. R.G. Kerin interjecting:

The Hon. K.O. FOLEY: As an interim response, as diligent as we can be in responding to the Leader of the Opposition, I am advised that Greening Australia first contacted my office on 25 November 2002 seeking relief from payroll tax. Greening Australia is considered to be a charitable organisation, evidenced by its status as a registered charity with the Australian Tax Office for income tax purposes. I am advised that not all charitable organisations, of course, receive payroll tax relief. To be eligible to be exempt from payroll tax in South Australia, an organisation needs to meet the criteria of a 'public benevolent institution'.

Under the South Australian Payroll Tax Act 1971, the definition of 'benevolence' is limited to the relief of poverty, sickness, suffering, distress, misfortune, destitution or helplessness. RevenueSA has advised that, as a result of its environmental role, Greening Australia does not meet the criteria as laid out under section 12 of the Payroll Tax Act 1971 and is therefore ineligible for an exemption from its primary tax liability. That is the advice that I am advised has been provided by the tax office.

However, I am advised that discussions will be held in the very near future between offices of Greening Australia and the government to consider what options may be available in this instance—happy to provide that.

MORIALTA CONSERVATION PARK

Mrs HALL (Morialta): Will the Minister for the Environment and Conservation give a commitment that free access to the Morialta Conservation Park will continue in the future and that the system of charging access to vehicular traffic will be confined to those patrons travelling to the Falls car park only?

The Hon. M.D. Rann interjecting:

The SPEAKER: Order! The Premier will remain silent so that I can hear the member for Morialta.

Mrs HALL: The national parks rangers have worked closely in consultation with the local community and the Friends of the Parks groups to develop a comprehensive management plan to continue to attract the approximately 200 000 visitors who enjoy this popular and unique metropolitan regional conservation park each year.

The Hon. J.D. HILL (Minister for Environment and Conservation): I thank the member for her question. I understand her great interest in the park. I was there with her on the day that it was opened some time last year. The decision has been made to impose a flat $5 parking fee for the Falls car park at Morialta Conservation Park. As the member would know, this car park accommodates 73 vehicles. The object of implementing a parking fee was to assist with traffic management.

Members interjecting:

The Hon. J.D. HILL: I think that the member for Morialta would probably understand and agree with that assessment. It is proposed that regular visitors be given an option of purchasing an annual parking pass at $40, with a $10 deposit on the card. I am pleased to inform the house that pension card holders will be able to purchase an annual pass at a concession rate of $30, and that is consistent with existing statewide park pass concessions. The Department for Environment and Heritage is establishing an automated parking fee station to facilitate the collection of fees and not the individual parking meters, to which I know the member for Morialta objected. The parking station development will operate from Monday 14 April this year.

A new car park accommodating 63 parking spaces has been built adjacent to the picnic ground off Morialta Road. This new car park will be available to visitors at no charge. An additional 33 parking spaces are available nearby off Stradbroke Road.

The establishment of a parking fee at Morialta Conservation Park has followed extensive redevelopment work at the site valued at $1.2 million. These works have included the substantial upgrade of walking trails, lookouts, interpretation and so on, to the benefit of that local community. As the member has said, over 190 000 visitors attended the park last year.

By way of background, the falls precinct has been developed so as to give pedestrians the right of way. It is anticipated that introduction of the fee will reduce demand for vehicle access to the Falls Precinct and reduce traffic congestion and visitor risks. Other traffic management measures that have been established include the installation of natural stone traffic rumble strips and a reduction of traffic speed to 25 km/h.

All the money from the fees collected will be used to support the maintenance and upgrade of park facilities, extend the daily opening hours to sunset and help to conserve the unique biodiversity of the region. A stakeholder consultation meeting was held on 11 March 2003 involving the Morialta Residents Association, the Morialta Black Hill Friends Group, the Lofty/Barossa Consultative Committee and the local member. As I understand it, representatives from all those local groups (I am not saying that this was the local member; I am not sure what her view was) expressed no opposition to the fee introduction.

When released in January 2001 under the former government, the Morialta and Black Hill Conservation Parks Management Plan highlighted that a fee would be introduced for the Morialta Falls precinct. No opposition to this proposal was expressed during the consultation phases of plan development, as long as the funds were reinvested back into the reserve, and that is exactly what the government is doing.

The only other fee for parking at national parks and reserves in South Australia is at the Mount Lofty summit in the Cleland Conservation Park, and that was introduced in 1997. The majority of national parks and reserves in South

Australia offering visitor facilities do charge entry fees, and Morialta Conservation Park has no such fee. The standard fee for entry to a park with a car is $6.50, and pensioners and concession card holders are charged only $5. Pedestrians are not charged.

Mrs Hall interjecting:

The Hon. J.D. HILL: There is a free car park there, too, and it will be kept as a free car park. I take it that the member for Morialta has no objections to what we are doing.

Mrs Hall interjecting:

The Hon. J.D. HILL: I referred to that in my statement; yes. There will be a free car park.

MAGISTRATES COURT

Mr SNELLING (Playford): I direct my question to the Attorney-General. What is the current state of the criminal list in the Adelaide Magistrates Court, and are defendants still experiencing significant delays?

The Hon. M.J. ATKINSON (Attorney-General): Although I am tempted to put the answer on notice, I think I may be able to respond to this probing question from the member for Playford. I am pleased to advise the house that last week I received a letter from Dr Andrew Cannon, the newly appointed Deputy Chief Magistrate, about this very matter that the member for Playford raises. Dr Cannon says in his letter:

> At the time of my appointment as Deputy Chief Magistrate with responsibility for the running of both criminal and civil lists in the Adelaide Magistrates Court, you expressed concern about the unacceptable trial delay in the criminal list. I predicted that with the appointment of additional magistrates effective from the beginning of March I would be able to report some reduction of the trial delay by April.
>
> I am pleased to advise that by careful listing practices an earlier reduction in delay than I hoped would be possible has been achieved. In December last year, the delay in listing criminal matters for trial was 22 weeks, but at the end of February that had been reduced to 15 weeks. The delay in pre-trial conference listings remained the same—at 15 weeks—but I am now implementing measures also to reduce that delay. There is much work still to be done to bring the list into a satisfactory state, but the position has already substantially improved. I shall keep you informed of developments.

This is excellent news, and I thank the Deputy Chief Magistrate, the Chief Magistrate and the magistracy for their efforts in achieving this. As is noted in Dr Cannon's letter, there is still a way to go to get the lists to a completely satisfactory state, but I have confidence that, with recent appointments, this is not too far off.

SEVERE ACUTE RESPIRATORY SYNDROME

The Hon. DEAN BROWN (Deputy Leader of the Opposition): My question is directed to the Minister for Health. What contingency plans does the minister have if an outbreak of severe acute respiratory syndrome (SARS) occurs in South Australia and closes two major hospitals to new patients, as has occurred in Toronto, Canada?

The Hon. L. STEVENS (Minister for Health): I sincerely hope that the deputy leader does not have the disease but, judging from his voice, he might need to see a doctor. The outbreak of this new disease is obviously of great concern to Australia and other countries around the world. To my knowledge today, there have been no outbreaks in Australia. However, we are taking advice on a daily basis in relation to precautions that need to be taken here, and I am very happy to come back with a more detailed response for the deputy leader, outlining the actual details of that advice and the precautions we are taking. It is a very serious issue, and we are taking it very seriously.

NATIONAL PLANNING CONGRESS

Mr KOUTSANTONIS (West Torrens): Will the Minister for Urban Development and Planning outline the expected outcomes of a national planning congress being held in Adelaide this week?

The Hon. J.W. WEATHERILL (Minister for Urban Development and Planning): I know that the honourable member has a keen interest in planning, because planning decisions of the past have led his part of the world to be inundated with water from time to time, and we are in regular discussion with him to try to work out a way to remedy that. The planning conference, which as members may be aware is happening this week, has attracted some 790 delegates from around the country and internationally. It is obviously highlighting this crucial issue of urban development and planning which is achieving much more prominence on the national agenda. The conference, named Leading with Diversity, raises the two central dilemmas that exist for good planning systems.

The state government obviously has a key role in determining the direction of metropolitan planning, and that involves a leadership function. However, in a modern community, there is such a diversity of interest and local conditions that it is crucial that we have some capacity at a local level to mediate in respect of those diverse interests. We are currently undertaking a review of our planning system to make sure that it does implement key state/metropolitan planning objectives but to do so in such a way as not to ride totally roughshod over local democracy. These are the central dilemmas that the conference is debating. Obviously, sustainability issues are very much at the forefront of the agenda, and they are receiving a lot of attention. In opening the conference, we also outlined the state government's plans to streamline our development assessment system to make sure that we have the best development assessment system in the country. It is regarded highly, but it can be improved to such a degree as to be regarded even as the best in this nation.

I will make brief reference to an important award made to a South Australian planner at last night's dinner associated with the conference. That national award went to a South Australian, Chris Menz, who was named as National Young Planner of the Year for his work in East Timor. Chris, who is almost 24 years old and moved to Adelaide from Queensland after he completed university, helped rebuild East Timor. Obviously, the planning arrangements there were crucially important in a new state that is seeking to recover from the ravages of armed conflict. He is currently the Chair of the South Australian Young Planners Association, he works with the City of Playford, and he deserves our congratulations. It is very timely to honour him because there is a shortage of planners in South Australia at the moment and we should be encouraging more young people into this important profession.

HEALTH, MINTABIE CLINIC

The Hon. DEAN BROWN (Deputy Leader of the Opposition): My question is directed again to the Minister for Health. Will the minister immediately stop the transfer of the Mintabie Health Clinic building to Marla and, instead of

paying huge amounts for this transfer, construct a new medical clinic at Marla and retain the existing building at Mintabie? The Mintabie community has expressed in letters its strong opposition to the transfer this coming weekend of the health clinic building from Mintabie to Marla.

I have been contacted by the Mintabie Miners Progress Association, the school, key Aboriginal leaders, and the community. Correspondence sent to me shows that Frontier Services is moving its health service to Marla, but the Royal Flying Doctor Service still visits Mintabie at least every two weeks. It is claimed that the relocation of the building would cost about $50 000 while a new building could be built at Marla for only $120 000.

The Hon. L. STEVENS (Minister for Health): I do not have an answer to the honourable member's question at the moment, but I am happy to take the details on board and look into the matter.

The Hon. Dean Brown interjecting:

The Hon. L. STEVENS: Yes. I understand from what you have said that the matter is urgent, and I will give it urgent priority.

PLAYFORD CAPITAL

Ms BEDFORD (Florey): My question is directed to the Minister for Science and Information Economy. How does South Australia's business incubator, Playford Capital, compare to its interstate counterparts?

The Hon. J.D. LOMAX-SMITH (Minister for Science and Information Economy): I thank the member for Florey for her question because I know of her interest in science and scientists in our state and in further commercialisation and intellectual property opportunities for the business sector. I am delighted to say that a recent independent evaluation has shown that Playford Capital in South Australia is one of the star performers of the commonwealth government's Building on IT Strengths (BITS) program and continues to act as a money magnet drawing valuable venture capital investment into South Australia. In fact, it recently passed the $12 million mark as an investment magnet.

An independent pilot evaluation of the BITS program was conducted by Allen Consulting Group, with Playford Capital being one of the three BITS incubators investigated. The other two were in Melbourne and Sydney. Whilst BITS funding comes from the federal government, the functioning of Playford Capital is supported by state funding to cover its administrative operations. The comments of the evaluators were particularly interesting. They said:

> Playford appears to have taken a more proactive role in capital raising than the other two incubators. . . Playford has achieved a strong public profile in Adelaide, which appears to have facilitated its access to business angels—

'business angels' being the people who put money in ahead of venture capitalists—

> and Playford Capital has achieved the highest amount of business angel and venture capital co-investment of the three incubators evaluated.

It would appear that our system for early business start-ups in the IT sector is more effective and progressive than those in other states. This is an important area, because members must realise that getting venture capital into small businesses in South Australia is especially difficult when venture capitalists and major investors are stationed in other states on the East Coast.

POLICE NUMBERS

Mr BROKENSHIRE (Mawson): Will the Minister for Police now agree that South Australian police numbers will be possibly as high as 70 fewer at the end of this year compared to what they will be—

Mr Koutsantonis interjecting:

The SPEAKER: Order! The member for West Torrens needs to watch his nose bag at lunchtime and keep the grumpy grumble beans out of his diet.

Mr BROKENSHIRE: Thank you, Mr Speaker. Will the minister now agree that South Australian police numbers possibly will be as many as 70 fewer at the end of this year compared to what they will be at the end of June this year? Since the year 2000, an average of 98 officers have resigned or retired from the South Australian police force between July and December each year. The government has recently cancelled the February, March and May police recruitment training courses, leaving only course 50 to graduate by the beginning of December 2003. As that course has only 20 recruits, police numbers will be down by between 50 and 70 officers for the busy Christmas/New Year period.

The SPEAKER: Order! Before the minister answers, I point out to the house that the information provided by the member for Mawson purports to be factual and, whilst it may be, and appears to be on the face of it, if members wish to make such statements they need to do so by citing the authority upon which they rely; and they need to do so also and more particularly in a context which ensures that the provision of the information adds in a way which is materially significant to the ability of all other members to understand the question and not to score points, to put no finer point on it than that.

The Hon. P.F. CONLON (Minister for Police): The member for Mawson asked me whether I agree with him. That is certainly something I would always be very slow to do in regard to the member for Mawson, and particularly on this occasion because his question is as inaccurate factually as it was infelicitous grammatically. The simple truth is, Mr Speaker—and as you alluded to—his explanation, which purported to introduce facts, did nothing of the kind. The government has not cancelled any recruit courses. I repeat: this government has not cancelled any recruit courses. As previously advised, to the best of my knowledge one recruit course was delayed by the Commissioner of Police. Why was it delayed? It was delayed because the purposes that it was intended to meet had not been realised; that is, attrition had not run at the rate that had been forecast.

What I will guarantee is this: our policy remains exactly the same. The promise we made before the election has been kept and will be kept: when police leave they are replaced. When one goes, a new officer comes in, something which I stress again never happened in the previous government, to the extent that in about 1998-99 there were 300 fewer police than there are now. What they did was recruit before an election with the inevitable outcome—

Mr Brokenshire interjecting:

The SPEAKER: The member for Mawson will come to order!

The Hon. P.F. CONLON: —that, because they recruited a big swag only before an election, we had the situation where we had many new officers on the beat at once. We welcome their youth, energy and enthusiasm, but the problem is that their way of doing things meant a large number of less experienced officers in the force all at once. This was a bad

outcome for the police and one that we have overcome. For the information of the member for Mawson regarding his other weird allegation yesterday as to which local service area lost when there were new detectives, I can give him the advice—none.

The SPEAKER: The member for Norwood.

Members interjecting:

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

BUILT HERITAGE

Ms CICCARELLO (Norwood): My question is directed to the Minister for Environment and Conservation. What action has been taken by the government to encourage the protection of South Australia's built heritage?

The Hon. J.D. HILL (Minister for Environment and Conservation): I thank the member for Norwood for her question because I know she has a very strong interest in heritage issues, particularly as she represents an area in which much of our state's heritage is located. I was pleased to announce the other day the inaugural Edmund Wright Heritage Awards, which will be presented at a ceremony on 8 August this year. The awards will showcase outstanding examples of the state's heritage which have been interpreted, promoted or protected. The awards will encourage and recognise sensitive use of heritage places and sites, and will also encourage the community to take an interest in the state's heritage.

They are named in honour of Edmund Wright, a prolific architect whose work included the Adelaide Town Hall, the General Post Office and the west wing—and I am sure the member for West Torrens will be pleased about this—of the parliament. His finest work is thought to be Edmund Wright House on King William Street. Interestingly, it was the threat that Edmund Wright House could be demolished that prompted the Dunstan government in 1978 to introduce heritage legislation in South Australia.

The awards were announced during a visit last Friday to the historic Changing Station at Old Reynella, which is currently being restored by a team of volunteers, business groups and residents led by local pharmacist Rob Moyse, all hoping that the 19th century ruins will become a tourist attraction. This project may well be in the running for an award. Nominations for the Edmund Wright Heritage Awards closed on Monday 2 June and more information can be obtained from my department.

ELECTRICITY, SNI INTERCONNECTOR

The Hon. W.A. MATTHEW (Bright): My question is directed to the Minister for Energy. Will the government meet its pre-election commitment that the SNI interconnector, previously known as Riverlink, will be built by September 2003 and, if not, why not? Prior to the last election, Labor distributed a pledge card from the now Premier listing Labor's pledges, one of which was, 'An interconnector to New South Wales will be built to bring in cheaper power.' Labor later stated that this work would be completed by September 2003.

The Hon. P.F. CONLON (Minister for Energy): Sir, there are some questions one would think that some people would not have the gall to ask. With respect to the SNI interconnector, let me explain the history of this and explain what we have done to bring it about as opposed to the previous government. This matter would have affected enormously the dreadful outcome we have seen in prices as a result of the previous government's privatisation. It was something the previous government initially supported and something on which it subsequently turned its back in order to maximise the price of the assets when it sold them.

It was that maximisation of price by every way it could do it, that is, by a monopoly retailer, by turning its back on SNI and by revaluing upwards the asset base of the distribution and transmission system. It was that maximisation of value and the sale that is a fundamental problem with which every South Australian now grapples. We came to government with a clear commitment to get SNI up, and I can say this: we have done everything in any government's power—everything. We have not changed our mind; we have not backdoored it; we have not backdoored the people of South Australia by it: we are doing everything in our power.

We cannot prevent, in the national electricity market, what occurred with Murraylink's appealing the SNI decision. What we could do was to make ourselves a party to that appeal process, which we did. We subsequently won the judgment. There is a further appeal. We have joined that appeal in order that we will continue to fight for this interconnector but, at the end of the day, it is to be built predominantly in New South Wales. I would love, simply, to have the power to go there and build it myself, but I think that the government of New South Wales would think that somewhat of a rude incursion into what it sees as its sovereign abilities.

As the member well knows, the matter is controlled, in terms of the national electricity market, by decisions of the ACCC. We have since seen, again, Murraylink's making an application for regulated status—the same group that has appealed twice, which is further frustrating the process. I would love that not to be the case, but there is no-one in this chamber and no-one in the opposition that can challenge the commitment of this government to getting SNI built.

JUDGES' SUPERANNUATION

Ms THOMPSON (Reynell): Will the Treasurer advise the outcome of the meeting of treasurers in Canberra on Friday 28 March 2003 in relation to judges' superannuation?

The Hon. K.O. FOLEY (Treasurer): The honourable member alludes to the fact that I was in Canberra on Friday for the annual treasurers' conference, chaired by the federal Treasurer, Peter Costello. One matter Mr Costello raised with all treasurers was the issue of a High Court action as it relates to judges in constitutionally protected superannuation schemes. I advise the house that on 6 February 2003 the High Court handed down its judgment into the case of Austin and Kings against the commonwealth government of Australia. I am advised that the case challenged the validity of the superannuation contribution tax, that is, the superannuation surcharge tax, a tax levied by the commonwealth Liberal government. The case related to the members of the constitutionally protected Superannuation Funds Imposition Act 1977 and associated acts, but the superannuation surcharge on employer contributions of high income earners was to challenge whether or not the commonwealth could indeed apply its tax—its levy, its surcharge—on members of a constitutionally protected superannuation scheme. That action was taken by, I understand, some Supreme Court judges.

I am further advised that the result of the case is that the surcharge legislation does not apply to judges, who are in a constitutionally protected superannuation fund, and that judges are not liable for any surcharge tax in respect of their pensions. I am advised that, to the best of my limited research on this matter (and I stand to be corrected), they may be the only such people who have been able not to have that surcharge applied. At the meeting of the state treasurers and the commonwealth Treasurer we had a lot to debate and discuss, and I disagreed with Peter Costello on quite a few things, although on a number of things I agree with him. I refer, for instance, to horizontal fiscal equalisation—a matter dear to all our hearts and fully understood by all—but that story is for another day.

At that meeting on Friday Mr Costello revealed that the commonwealth government had sought legal advice, which indicated that the commonwealth could not amend its laws to require judges to pay the superannuation surcharge. If the judges are not subject to the surcharge, they, along with other members of constitutionally protected superannuation schemes (I will let that hang), could eventually, following further cases I am advised, be the only employees in the country who do not pay the superannuation surcharge. At this point I have everyone's attention.

Peter Costello asked Treasurers whether we would consider stepping in and assisting him in his time of need. Peter Costello indicated that the commonwealth government has legal advice which indicates that the states can levy the charge against judges. The commonwealth Treasurer then asked if states would consider enacting or amending legislation to ensure that the charges are levied against all employees, if they are able to find a way around it, in particular against judges. A member opposite is shaking her head (perhaps the member for Bragg does not want this to occur). I am keen to support Peter Costello. When a High Court action saw the states lose their taxing powers as they related to petrol, alcohol and tobacco, the commonwealth government stepped in swiftly to preserve the tax base of the states.

In support and in return I have indicated that from this government's viewpoint we would be prepared to step in and return the service and the favour to the commonwealth government. In Peter Costello's hour of need, I am prepared to recommend to my colleagues that we too should consider this issue. It will all depend on legal advice we receive from Peter Costello and also on our own legal advice. I think it is a fair request that we should, as I have said, consider assisting Peter Costello in his hour of need.

Mr Meier interjecting:

The Hon. K.O. FOLEY: The member for Goyder says, 'Why don't you remove the tax altogether?' I am not quite sure why the member would be suggesting that. This is a commonwealth tax—a federal Liberal government tax. It is not a tax of our choosing, but we are prepared to consider the request made by Peter Costello.

ELECTRICITY, SNI INTERCONNECTOR

The Hon. W.A. MATTHEW (Bright): My question is again directed to the Minister for Energy. Further to the minister's answer to my previous question, can he advise the house how much has been spent to date by the government on legal representation, including crown law costs, in relation to the SNI or Riverlink interconnector, and what is the total cost of this representation ultimately expected to be?

The Hon. P.F. CONLON (Minister for Energy): As much as I like to be on top of all my briefs, these are not the sorts of figures I carry around with me. I will certainly ascertain the information for the member and bring it back. I would really like to know—and perhaps the member could be clear with me—just what the opposition's view is on the interconnector. We know that in the past the opposition supported it, then they turned their back on it to maximise the price, then they asked me a question about why it has not been built, and now they are asking me a question about how much we have spent trying to get it built. Perhaps the opposition could be a little more clear. It is nice for the opposition to dig around to try to find something to make themselves relevant, but what is the position of the opposition? Does the opposition support our attempting to get the interconnector built?

In stark contrast to the previous government, we said that we would do something and we are going to do it. They said that they would not sell ETSA: they did so. We are going to stand by what we did. If that involves briefing lawyers to defend the state's position—sending crown law—to attempt to keep our promise to the people of South Australia, we will keep sending the lawyers to keep that promise.

SMOKE ALARMS

Mr BROKENSHIRE (Mawson): My question is directed to the Minister for Urban Development and Planning. Why has the minister not announced further initiatives to address fire alarm legislation neglect by some landowners? In July 2002, the minister announced that over the following couple of weeks he would be meeting with MFS, ICA and local government to talk about ways to improve the situation. Many people in the media and the community have since indicated that fire alarms were not working properly and that lives were at risk.

The Hon. J.W. WEATHERILL (Minister for Administrative Services): I thank the honourable member for his question, because he has raised a very pertinent point. As the member would be well aware, I did place on notice my intention to take steps to improve the use of fire alarms. To our great sadness, many members would be aware of reports often occurring about fire alarms without operating batteries being found in the charred remains of a burnt house, and that is a source of enormous concern. In many circumstances, it obviously leads to loss of life. It is a simple measure that can have a dramatic effect on saving lives.

Over a period, we have given thought to measures that we can introduce to improve this situation. One of the measures that has occurred recently—and it occurred again this year—is the usual reminder around the time when people have to switch their clocks forward or back by one hour to check the battery in their fire alarms to ensure that they are operating, and it is possibly a timely opportunity to publicly issue that reminder again.

As recently as last Thursday, I spoke at a national conference of building surveyors when this very point was raised. One of the important roles of a building surveyor and of the building certifying professions is to ensure that when a house is built the relevant smoke alarms are provided. Of course, that is only part of the exercise. Because smoke alarm batteries do run out, it is a question of ongoing monitoring. Without actually going door to door and inspecting people's homes and inquiring whether the battery in their smoke alarm

operates, which some would regard as an unwarranted intrusion, it is difficult to police this matter on a regular basis.

So, a range of measures have been considered, and one of those measures is to provide further resources for public awareness programs. Of course, that involves publicity and the preparation of material and associated costs. That measure has been the subject of discussions in the context of the budget but, of course, we are not at liberty to go into that matter. I am also well aware that the manager of the building section of Planning SA is preparing for me a range of measures to address this question. It is an important issue that needs to be addressed as a matter of some urgency, and I will bring back to this house details of measures that are responsive to this question.

COFFIN BAY NATIONAL PARK PONIES

Mrs PENFOLD (Flinders): My question is again directed to the Minister for Environment and Conservation. Will the minister produce for the house details of the written or oral advice he has received regarding the effect of consumption of salvation Jane (also known as Patterson's curse) on our state's heritage horses located at Coffin Bay? The minister has been quoted as saying it is a furphy to suggest that Coffin Bay ponies will be poisoned by salvation Jane if they are moved to One Tree Hill. Today, a local agronomist states that he has just inspected the land, which is devoid of normal seed. The local agronomist is reported as saying that by September or October there will not be too much grass left; there will be plenty of salvation Jane (Patterson's curse) in full flower (full vegetation), and the horses will not have any option but to feed on that. The local agronomist predicts that the horses will suffer a slow and agonising death.

The Hon. J.D. HILL (Minister for Environment and Conservation): It is 1 April, so I can only assume that it is an April Fool's Day question from the member for Flinders. There have been negotiations with the Preservation Society about moving the horses to another location. As I have said in and outside this place, if the Preservation Society does not like the recommended site, we are happy to talk to them about alternative sites if they can identify some of those sites.

It is interesting: I grew up in New South Wales, where the plant was called Patterson's curse, but in South Australia, of course, as the member for Flinders has said, it is known as salvation Jane. As I understand it, in agricultural areas it has provided some benefit to stock at various times. I do not know how many paddocks in South Australia there are, nor do I know how many have salvation Jane growing on them, but I would imagine that in this state there is a fair amount of overlap between stock and salvation Jane. I think that the argument being put by the Preservation Society is really a desperate one in an attempt to try to have the decision changed, but that decision will not be changed. As I have already told the member, if she brings these people in to see me, I am happy to talk to them about alternatives, but the decision to move the ponies out of Coffin Bay National Park has been made.

HOSPITALS, BOARDS

Mr GOLDSWORTHY (Kavel): Will the Minister for Health guarantee to the house that country hospital boards as they presently exist will be retained under the generational health review? The Gumeracha and District Soldiers Memorial Hospital and Mount Pleasant District Hospital operate under one combined board. The community in this region of the Adelaide Hills is most concerned that this board will be abolished under the generational health review.

The Hon. L. STEVENS (Minister for Health): I thank the honourable member for the question. The issue of governance of our health system and all the health units in the system has been a major area of investigation by the generational health review, which will report in a few weeks. The member will have to wait and see what the recommendations are and then how the government will respond to them.

MATTERS OF PRIVILEGE

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

Leave granted.

The Hon. I.F. EVANS: In relation to the matter of precedence on which you, sir, ruled previously, I offer the following explanation for the house to consider. From memory, I think the Hon. Rob Lucas received the freedom of information response from the government on 8 August. I asked the first question on 22 August to which the minister responded with the qualified answer, 'No, not that I am aware.' On 19 November I asked another question of the minister, which he took on notice, and a written response to this parliament was received on 20 February. That three month delay was not of my making. On 20 February, the very day that parliament received that written response, I asked the next question, which again received the qualified response, 'No, not that I am aware.' Then on 24 March—Monday of last week—I raised a question to which I got the definite answer of no. I then waited two days to give the minister the opportunity to clarify *Hansard* or make a special explanation. When that did not occur, I raised that matter on 27 March. On my true belief that those are reasonable steps and time frames, I ask the house to accept this explanation.

The Hon. P.F. CONLON (Minister for Emergency Services): On the matter of precedence, I say at the outset that we welcome your ruling, sir; the government has raised the concern that the privileges of the parliament are an extremely important issue. A Privileges Committee of the parliament should be set up for good reason. Complaints of breach of privilege should be made for good reason and in a timely fashion because, as you, sir, well know, the purposes of raising a complaint of breach of privilege should not be for the advantage of one side or another but to preserve the ancient privileges of this parliament. It was and remains our view, despite the explanation, that a game was played on this occasion, that the matter was not raised as early as it should have been, and that the parliament has been very poorly served.

Members interjecting:

The Hon. P.F. CONLON: I invite you, if you are upset. However, I am reminded of what I said when the Privileges Committee still sitting was set up: I said at the time that we would set it up out of an abundance of showing our credentials as an open and honest government—which we did—but I also said that I believed there would be no case to answer. I will not go into the merits of the case currently before the

committee, but that was my position then: that we were doing it out of an abundance of openness and honesty but that in my view there was nothing to answer. It seems to me I can hardly say that on the one hand there is nothing to answer but that, on the other hand, there was a failure to make this complaint of privilege.

Given that I said there was not much in it, I can hardly maintain a consistent position by saying a Privileges Committee should be set up on this occasion. I want to make absolutely clear that I am also very much aware that we want the current Privileges Committee to sit on its merits, with no deal with the opposition on this one—no concurrently running committees so that we can hold one hostage against another. We do not want that taint of the currently sitting Privileges Committee. We want that committee to deal with the issue on its merits because, as I said before, I am very confident of the outcome. While we welcome your ruling, sir, and despite what we think is a very good ruling, for the reasons I have outlined, it is not the intention of the government to seek a Privileges Committee on this occasion.

GRIEVANCE DEBATE

YUMBARRA CONSERVATION PARK

Mrs PENFOLD (Flinders): The City of Adelaide is a long way from the Yellabinna Regional Reserve. Nevertheless, we have many instant experts on Yellabinna, including the member for Mitchell, who condemned exploration and mining in a small, specific section of an area that is as large as Victoria. What would be the response to the banning of all mining and mining exploration in the state of Victoria? The Yellabinna Regional Reserve, north-west of Ceduna, covers 4 million hectares, which is similar in size to Victoria. Within this large expanse is a much smaller area of 327 000 hectares called Yumbarra Conservation Park and, within this area, the even smaller section of 26 650 hectares that is the subject of discussion. We are talking about 0.65 per cent of the total area to be opened for investigation. The investigation has arisen from the aerial geomagnetic survey of the Gawler Craton which pinpointed possible mineral deposits. The size and content of the deposits must be evaluated before mining can be considered.

The Ceduna community was excited about the prospect of a mine development that would provide employment for locals, who could then continue to live in the area that they preferred, surrounded by the family supports that are so advantageous. In 1968 I visited Yumbarra and listened to the traditional owners of the land, the Wirangu, as they expressed their hopes and excitement at the prospect of a mine being developed. In 1999 the Chairman of the Wirangu Association, Mr Milton (Mitch) Dunnett wrote:

> A high proportion of our people are unemployed with limited opportunities available locally for employment. This has resulted in a drift from our communities to other centres, separating our families and children. Exploration and mining will provide direct benefits into the local community and the state.

Mr Dunnett is one of our quiet achievers, of whom we are very proud.

Mr Hanna also quoted from a 1996 Wilderness Society Advisory Committee document in which was the statement that the land belonged to the Maralinga Tjarutja. Mr Hanna said 'These facts remain true.' The ownership 'fact' was never correct and caused a great deal of pain among our indigenous people.

In reply to the member for Mitchell in this house on 25 March last week, the Minister for Environment and Conservation, the Hon. John Hill, said that the park would be reproclaimed if existing exploration proved fruitless and if the lease expired. The minister said:

> Only one of these conditions has been met; that is, that the lease has expired, but the exploration has not proved fruitless. On the basis of that policy decision, we have no choice but to allow another application to be considered.

Ceduna Mayor Peter Duffy has asked the government to allow exploration that can determine whether there is viable mineralisation in the area under discussion. In a radio interview on 25 March last week, Mr Duffy said that stringent environmental conditions on the previous exploration licence made it almost impossible for the mining company to carry out the necessary work. He said:

> The company did some very preliminary investigations. They were thwarted at every opportunity to go in and do real deep core drilling. In the end, after a lot of perseverance and negotiations, they gave up.

The group that would benefit most from a mining development in Yumbarra is the traditional owners of the land, the Wirangu, who support the development. They are a disadvantaged group in our society. They and I were excited at the possibility of employment, of the very real opportunity to live the type of lives that the member for Mitchell and metropolitan residents take for granted. I recall how the approval to carry out tests in a small selected section of Yumbarra was welcomed. I acknowledge with anger that those tests that are essential to determine whether a deposit is viable have been frustrated by bureaucrats and so-called conservation groups to such an extent that the lessees eventually surrendered their leases and asked that the new operators be given every assistance to ascertain the viability of the deposit.

Time expired.

KATYN FOREST MASSACRE

The Hon. M.J. ATKINSON (Attorney-General): Today I rise to grieve the deaths of more than 4 000 Polish serviceman in Katyn Forest, Russia, in April 1940. On 1 September 1939 Germany invaded Poland from the west, and 17 days later the Red Army marched in from the east. The new German-Soviet boundary—the so-called Ribbentrop-Molotov line—was established leaving Poland divided between German and Soviet domination. This was followed by a barbarous international crime, the Katyn Massacre, which was veiled for decades under the fog of war and obscured by the Iron Curtain that darkened Europe's east.

In April 1940, 4 421 members of the Polish intelligentsia from the Polish territory that fell into Soviet hands were killed. The Polish community of Adelaide erected a memorial to the victims that stands outside the Dom Polski Club in Angas Street in the city. Katyn Forest is an area a short distance from Smolensk in Russia where, on Stalin's orders, the NKVD (or the People's Commissariat for Internal Affairs) shot and buried the Polish service personnel who had been taken prisoner at the start of the Second World War. Documents that have now come to light since the collapse of the USSR show that in March 1940 NKVD head Lavrenti Beria sent a letter to Stalin bluntly suggesting that he have a third of those Poles in Soviet custody shot. An excerpt of this letter reads:

> Order the USSR NKVD to pass judgment before special courts on. . . the 11 000 members of the diverse counter-revolutionary

espionage and sabotage organisations, ex-landowners, factory managers, ex-officers of the Polish army, officials and renegades who have been arrested and who are being held in the prisons of the western regions of Ukraine and Belorussia, so that THE SUPREME PENALTY MAY BE APPLIED, DEATH BY FIRING SQUAD.

Most of the victims in Katyn Forest were Polish army reservists—lawyers, doctors, scientists and businessmen—who were called up to active service following the Nazi invasion of Poland. One account describes the slaughter:

The Poles were driven up to the burial pits in long NKVD prison trucks known as 'black ravens'. They were pulled from the trucks one at a time by NKVD guards. Each Polish prisoner had his hands bound behind his back and then was dragged to the edge of a pit. There two NKVD men held him while a third fired a pistol bullet into the back of his head. Some struggled and were bayoneted by NKVD guards before being shot and thrown into the pit.

In 1943 the advancing Nazi troops exhumed the Polish martyrs and blamed the killing on the Soviets. In 1944 Soviets retook the Katyn area and exhumed the Polish dead again, and then blamed the Nazis. Despite the discovery of the killing field and the knowledge of these mass graves in the international community, President Roosevelt and Prime Minister Churchill labelled this horror a German plot, with the aim of bolstering the anti Nazi alliance.

In 1989, with Soviet Eastern Europe falling apart, President Gorbachev finally admitted that the NKVD had executed the Poles and confirmed two other burial sites similar to the site at Katyn. About 22 per cent of the Polish population was killed or murdered by invaders from east and west during the Second World War. It was not until 1995 that Lech Walesa and relatives of the Katyn Forest victims attended a memorial service at the site of the massacre. The Polish media denounced the decision of Russian President Boris Yeltsen not to attend the ceremony:

There has been no apology of the kind that Germany has long since made. This day could have been a symbol of reconciliation between two nations tragically marked by communism. Instead it is a bitter shame, and Katyn Forest continues to cast its dark shadow.

Poles around the world remember the sacrifice of their countrymen, and wait and pray for an apology that never seems to come. The Katyn Forest massacre is commemorated today.

Time expired.

EDEN VALLEY FIRE

Mr VENNING (Schubert): Today I want briefly to apologise to the former federal treasurer (Hon. John Dawkins). We hear today that the previous minister has been to court and there has been a judgment. I want to make this clear: I never intended to attack the previous minister personally. He is a constituent, as his property is in the electorate of Schubert. I believe that at all times the former minister acted responsibly after accidentally lighting that fire. He contacted the minister and offered his resignation, as the minister said in this house. It was not the former minister's intention to cover this up. Although that was the accusation I made then, I was referring to the intention of others in the system. The minister said, 'No, John, I won't accept this resignation. It will be all right. We'll fix this,' and that is what happened. I do not know who gave the instruction to cover it up, but that is the information the volunteers received. I apologise for any angst that has been caused to the Hon. John Dawkins and his family, because the former federal minister acted honourably at all times in this matter.

I now want to raise another matter, and it concerns my conflict of interest in relation to bulk handling in this state. I have always declared that I have shares in the Australian Wheat and Barley Boards and, indeed, AusBulk—purely because, like most grain growers in Australia, we all have shares. They were issued to us because we were involved as grain growers. My brother is now a director of AusBulk. I ask the house: does this preclude me from discussing matters in relation to bulk handling in this state? I hope not, because it is a key industry to me as a grain grower and also to my constituents; and, most importantly, it is the key industry in our state. I do not wish to be gagged. My brother happens to be a director; I happen to be a member of parliament. That is how it is, and I do not believe that anybody should be bound by that.

I was rather confused at the announcement made last Friday in the press and on radio that AusBulk is about to spend $40 million on upgrading the port of Ardrossan. I was flabbergasted by that announcement because, as we know, this has never been promoted before by any of the studies done into deep sea ports in our state. That is $40 million of the company's money—in fact, in the end, shareholders' or growers' money. Why would you want to spend $40 million on a port that is only 50 kilometres up the road from an existing deep water port at Port Giles? Irrespective of whether you support Port Giles being there, it is there and it can handle big ships at present. We are spending money on it to upgrade it so that it can handle the Panamax ships more conveniently. Why would you want to spend $40 million on a port at the tip of the gulf which is shallow and sandy? There is no railway there, the roads are substandard and also it is not very far from Wallaroo. I question why this decision has been made now.

I think I know why. It is because there is a pending announcement from the Australian Wheat Board about the future of yet another port, Myponie Point. I think this is a ploy or a block by AusBulk to put their competitor on notice, saying, 'If you go ahead with this, we will go ahead with Ardrossan.' This is very sad, because these three bodies are in the same industry with the same shareholders, the grain growers of South Australia.

I urge the state government to get on with what it has said about Outer Harbor—a question was asked yesterday in the house—get the third river crossing up and going and get this new facility at Outer Harbor up and running, because the longer it delays the more confusion there will be and the more it will cost the state. There are millions of dollars of growers' money involved, and this is grossly inefficient. While we muck around, our competitors (both interstate growers and, more particularly, interstate freighters) will pick us off, and when the port of Melbourne comes along we will still be dillydallying in the backwaters without a deep sea port on the eastern side of the gulf.

SCHOOLS, ATTENDANCE

Ms THOMPSON (Reynell): I wish to speak today about the issue of attendance improvement in our public schools. I commend the minister for the work that she has done so far in addressing this issue. I think it is important that one of the early actions of this government was to address the issue of attendance. Focus in the media is often on high school students who seem to be hanging around shopping centres and pool halls and such places. The attendance package announced by the minister addresses these issues and

encourages schools and the police to work together to ensure that children who should be at school attend.

Another very important issue is the regular attendance of primary schoolchildren. Early in my time as a member of parliament I was distressed to note the number of young children who seemed to be missing school. I noted this particularly when attending functions at schools when I would find that even children who were to receive awards at presentations were not there. I would hear mumbles coming from the children saying, 'He's sick', or 'She's away; we don't know where she is.' On looking more closely at the figures I saw that the attendance patterns were something to be alarmed about, when I thought of my school years when I was absolutely petrified of missing out on something if I missed one day.

I also learnt that, unfortunately, absenteeism is higher for children who are in receipt of a school card. This is an indication of the many difficulties experienced by families using school card and how they can overflow into their children's education. For this reason, in 2000, I asked a parliamentary intern to look at the topic of 'can a primary school child's continual absence from school be an indication that their parents require support?' I again record my thanks to Mardi Boxall for the work she did in our local community investigating this matter.

I made sure that I presented a copy of Mardi's report to the now minister. I am pleased to see the consistency between what was discovered in that report and the recommendations made and the attendance improvement package questions and answers that the minister has released. The whole issue of attendance improvement will not be dealt with in just a few months. The work of the minister's Absenteeism Task Force is continuing, but the minister has caused to be issued to schools some initial information and a requirement that they start to address an attendance improvement plan.

Morphett Vale High School in my electorate has taken this matter on board seriously. It has used technology as well as human intervention to achieve an improvement in school attendance rates. They use palm pilots to quickly record who is in class. This goes back to a central area where those who are missing can be identified. The school then contacts the parents to find out what is going on with that child. If that situation is not resolved, the school meets with the parents to determine a way of overcoming the issues relating to the attendance of that child.

The school has also initiated a system whereby it recognises good attendance and achievement. It has established a gold card system with local traders so that those students who attend school regularly are seen as good citizens, deserving of being recognised and rewarded. The Principal, Ms Wendy House, advised me that they have not yet been able to evaluate vigorously the outcome of this system because it has only been in operation for one term, but it is clear to her that there is an improvement in attendance rates and that students now acknowledge that attending school is important and worth while.

Addressing the issue of school attendance from the early years right through to the latter years of schooling is an important way in which our education system can help to develop good community citizens who recognise that education is important both to the individual and the community and that it is a responsibility of the whole community to support schools in achieving good attendance patterns.

GOYDER ELECTORATE CLUBS

Mr MEIER (Goyder): Yesterday, as members would recall, I paid my compliments to the Kadina Golf Club in association with the hockey, softball, cricket and football clubs at Kadina on the official opening of their irrigation system. The amount of voluntary work that went into that project was absolutely phenomenal, and it was wonderful that at least a state government grant of $120 000 was given to that project. I also complimented the Yorketown Lions Club on the 30th anniversary of its charter and the fact that the Lions Club has done so much for this area over many years in a multitude of ways. Again, I reinforce my thanks to them.

I think it is wonderful that a new Lions Club will be formed on Yorke Peninsula on Sunday 13 April. The Lions Club of Yorke Peninsula Rail is to be chartered at Wallaroo. We will not only see the formation of a new Lions Club but the rebirth of the Wallaroo to Bute Tourist Railway. The Acting Speaker would be aware that public liability has been a huge problem in this state and this country over the last year or two. One of the organisations affected by this was the Yorke Peninsula Rail Preservation Society and its volunteers. In fact, its public liability insurance increased from about $5 000 per annum to in excess of $50 000. In the end, no company would give it a quote, and as a result it had to close down last year.

With its support, the society was able to use the public liability insurance of Lions International and they hope to have the Yorke Peninsula Railway operating again at Easter. I wish the Lions Club of Yorke Peninsula Rail all the very best for its charter on Sunday 13 April.

The Hon. M.J. Atkinson: Hear, hear!

Mr MEIER: As the Attorney interjects, this is excellent news, and I trust that, whilst this helps to get Wallaroo under way, we might also have full support for the member for Mitchell's motion in relation to public liability insurance as soon as possible so that the government does what it can and follows the lead of governments such as Victoria and Tasmania to make sure that many other volunteer organisations can once again continue to operate or, where they have ceased to operate, once again start operating.

Another big function is coming up in my electorate this weekend, and that is the inaugural Stansbury Port Vincent Wooden and Classic Boats Regatta. As I said, this is a first, and it will take place in the townships of both Stansbury and Port Vincent. I am delighted to have been invited to the official opening at 11.30 a.m. on Saturday when vessels will depart from the Port Vincent marina and proceed to Stansbury.

The Wooden and Classic Boats Regatta is something new for Yorke Peninsula. Apparently these boats are similar to antique boats. They are certainly special boats, and I look forward to seeing them. I believe that most, if not all, would be wooden boats. Certainly there is something for anyone who is interested. They have received entries not only from far and wide in South Australia but also from New South Wales. I thank the organisers. If my memory serves me correctly, they have been organising this event for the better part of two years, so it should be a great day. Let us hope the weather is suitable for the wooden and classic boats. I wish them bon voyage in their trip from Port Vincent to Stansbury.

I must say that it is not long before the Port Vincent marina will also be opened, and this is one more positive outcome for the electorate of Goyder. Certainly we are continuing to progress from strength to strength. I thank the

many volunteers who help us to progress and all the people who continue to support Yorke Peninsula.

Time expired.

ON OCCUPIED TERRITORY

Mr CAICA (Colton): On Friday 28 March, I was fortunate enough to represent the Premier at the launch of the Fleurieu Peninsula Encounter 2002 artwork unveiling titled *On Occupied Territory*. This event was held at Victor Harbor on the lands of the traditional owners, the Ngarrindjeri. It was an event to celebrate, through the launch of public artwork, the meeting of Flinders and Baudin 201 years ago. The artwork, which highly regarded South Australian artist Margaret Worth was commissioned to produce, is without doubt an outstanding piece of high quality public art.

As members of this house should be aware, broadly speaking, public art can be described as the practice of contemporary art outside the traditional gallery system. This form of art can be seen by a much wider and more varied audience than that seen by the typical art gallery visitor. It is also a form of art that becomes a part of the everyday experience—

The Hon. W.A. Matthew: You didn't write this.

Mr CAICA: —yes, I did—of our landscape and, best of all, an art form that has no direct class or social barriers. Margaret Worth, who incidentally lives at Victor Harbor, has achieved all this and much more. Through her work *On Occupied Territory* she has been able to incorporate a recognition and a respect for the links that exist between our environment, heritage and community. With this artwork, Margaret Worth, 200 years on, has included an important ingredient missing from the encounter between Flinders and Baudin all those years ago; that is, a recognition and an acknowledgment of the traditional landowners.

On Occupied Territory recognises the indigenous population, the traditional owners, on whose land the launch took place. Among the many people invited to attend was Mr George Trevorrow, Rupelle of the Ngarrindjeri Tendi, former French Prime Minister Mr Michel Rocard, and British Consul General Mr Anthony Sprake. Near the conclusion of the launch was an event, which, for me, was a highlight. The flags of France, Great Britain and the Ngarrindjeri were exchanged between the respective parties, acknowledging 200 years later what should have occurred when Baudin and Flinders met—a recognition and the involvement of the traditional landowners, the Ngarrindjeri.

Incorporated into the exchange of flags was the signing of what is an extremely important agreement between the Ngarrindjeri people and the city of Victor Harbor. This agreement details the expressions of sorrow and regret for the injustices suffered by the Ngarrindjeri since the occupation of their traditional lands, and the commitment of the parties to strengthen the links between the communities, to reconcile and to move forward together through embracing mutual respect as an underpinning foundation.

It is interesting that, before the event, one of the international visitors asked me whether or not works of art and the signing of such agreements at the local level make a difference. We had a discussion and my answer was, 'Yes, of course they do.' It is an acknowledgment by the community and the local leaders within that community that there is no harm in acknowledging the sorrow and regret for past injustices suffered by the indigenous communities. In explaining this to the international visitor of even more interest was the fact that, whilst we have a federal government that has an inability to say the word 'sorry', it is very important that local communities continue along this particular road so that, over time and through momentum, an inevitable outcome will be the expression of sorrow at the federal level by the responsible government of the day.

Yes, artwork, the commissioning of artwork such as *On Occupied Territory* and the signing of such agreements, is very important in the education process and the process of reconciliation. It was one of the pleasures of my life to be on the stage with Mr George Trevorrow and be part of this process. I congratulate the Rupelle, Mayor John Compton, the city of Victor Harbor, artist Margaret Worth and the councils of Victor Harbor, Yankalilla and Alexandrina for their fine work and for which they deserve to be congratulated.

I also thank—and not that I do this very often—and congratulate the Hon. Dean Brown for his work in the process and for the manner in which he graciously accepted a visitor and a parliamentary colleague into his electorate. It was a magnificent day. Hopefully, there will be more of them. I look forward to more public artwork such as that being commissioned.

Time expired.

TODAY TONIGHT PROGRAM

The Hon. M.J. ATKINSON (Attorney-General): I seek leave to make a ministerial statement.

Leave granted.

The Hon. M.J. ATKINSON: My ministerial statement is about allegations that were broadcast on ADS Channel 7 during Today Tonight on Monday 17 March 2003 about the conviction of Mr Henry Keogh for the murder of Anna-Jane Cheney.

Mrs Redmond interjecting:

The DEPUTY SPEAKER: Order! It is hard to hear the Attorney.

The Hon. M.J. ATKINSON: Before I report on each of the allegations raised, I must do two things. First, let me apologise to the Cheney family for the hurt that has been done to them. I met with Anna-Jane Cheney's mother and brother the week before last. They have had to live with the campaign to release the murderer of Anna-Jane for nine years. They are a private family who avoid the media as best they can. Mrs Cheney asked whether I could do anything to make sure the whole story was told, and to make sure the distorted version of events did not go unchallenged. I gave Mrs Cheney my commitment that I would do so.

I am not sure whether the lack of empathy and compassion shown by *Today Tonight* for the Cheney family was an oversight or ambivalence. I do know, however, that *Today Tonight* showed photographs of Anna-Jane contrary to the family's pleas. It would appear that to get their story to air the producers of *Today Tonight* were prepared to show little respect for the rights of Anna-Jane's family and, instead, were prepared to pander to morbid curiosity by showing forensic photographs of Anna-Jane's lower legs—

Members interjecting:

The Hon. M.J. ATKINSON: And I note that the house agrees with my assessment. Contrary to their own ethics code, those who put the story together chose to sensationalise

a series of allegations that are neither startling nor new. Indeed, if the allegations were startling, it was not because they were new; rather it was the misleading manner in which the allegations were presented.

Secondly, let me apologise to the house because I am sure that those of you who have served in the parliament for as long as I have will recall not only Anna-Jane Cheney's murder but also that my predecessor, the Hon. Trevor Griffin, spent some time in another place on 14 November 2001 questioning the reliability of the ABC's *Four Corners* program on 22 October 2001 on which it was said that there was new evidence suggesting that Henry Keogh might be innocent.

Similarly, on 20 February 2003, the Hon. T.G. Roberts responded on my behalf to a motion put by the Hon. Nick Xenophon concerning the Keogh case. Notwithstanding these efforts to explain that all relevant facts had been considered by the court in convicting Henry Keogh, a few people (I repeat, just a few people), including a couple of lawyers and a former law professor, have questioned the competence of the prosecution and suggested that important pieces of evidence were withheld from the court. This is wrong. I deny it.

The personal conduct of Paul Rofe, the Director of Public Prosecutions, was raised in the *Today Tonight* program. The media—in particular *Today Tonight*—have suggested that the Director has a gambling problem. I have spoken to him and he has made an undertaking not to gamble during work time. If he breaches the undertaking he may be guilty of misbehaviour within the meaning of the dismissal provisions of the Director of Public Prosecutions Act. I did not smooth the matter over as *Today Tonight* would have the public believe.

This has nothing to do with the conduct of the Keogh case. Mr Rofe's handling of the Keogh case was skilled, scrupulously fair and thorough. He quite properly drew the jury's and the court's attention to the weaknesses in the pathology evidence. For example, in his address to the jury, he said:

> If this was just pathology evidence then Keogh should be acquitted.

And before the High Court on 3 October 1997, he stated:

> The trial was conducted on competing possibilities with four experts at varying levels of confidence in varying theories that were advanced. All of them acknowledged the fact that it was most unusual for a fit, healthy 29-year-old person to drown in a bath as a result of anything other than some intervening force, either the way the Crown put it or the defence put it.

He went on to say that it was the Crown's contention that the pathology in itself could not prove the case in isolation. He made it plain that the pathology evidence was only part of the Crown's case and invited the jury to rely instead on other evidence that it was not an accident. The High Court of Australia observed:

> The pathology evidence is not put at the forefront of the Crown case. The trial judge says to the jury: 'It is accepted by both sides . . . that the pathology evidence, by itself, does not solve this case for you.' It is hard to see it as being critical to the conviction of the applicant, at least on the basis of what the jury were told.

The *Today Tonight* story asserted that Dr Manock was not a competent witness. Consistent with an earlier petition from Henry Keogh requesting that His Excellency The Governor exercise the prerogative of mercy, the assertion is based on the findings of the Coroner at the inquest into the deaths of three children. I agree: the Coroner's findings were given after the trial of Henry Keogh, but Keogh and his defence knew the allegations during the conduct of the trial. I do not agree with *Today Tonight's* conjecture that the Coroner found Dr Manock incompetent in performing autopsies on mature adults: rather, the Coroner concluded that there is a particular skill in performing an autopsy on very young children and that Dr Manock, like some pathologists used by the state, did not have this skill. Consequently, the Coroner found the autopsies of the three children to be inadequate.

The pathology put forward by Dr Manock fitted in with other evidence, such as Anna-Jane's age, that she had consumed a social amount of wine and that she had no other drugs to encourage her fall. Although there are differences of opinion on some of Dr Manock's views, no forensic pathologist, to my knowledge, has ever challenged his assertion that the post-mortem resulted in suspicious features that warranted further investigation by police. The opinion of Associate Professor Tony Thomas that a fit, healthy 29-year-old could die suddenly, with no obvious signs visible at autopsy, was extensively canvassed in the petitions.

There have been two petitions. At trial, Dr Manock's evidence was that the cause of death was fresh water drowning. Dr Ross James, a senior forensic pathologist whose reputation and qualifications have been widely accepted, agreed with this. Doctors Cordner and Ansford, both for the defendant Henry Keogh, never disputed that the cause of death was fresh water drowning. Dr Cordner at trial stated, with some qualification, that there was no evidence of an underlying medical condition. Ansford stated that he could not exclude myocarditis or epilepsy as possible causes of death.

The petitions did not specify the nature of the underlying medical condition that might have caused Anna-Jane's death, nor were any names of medical specialists given who were of the view that Anna-Jane had a serious (possibly fatal) medical condition not associated with drowning. Dr Manock's explanation for discolouration on Anna-Jane's body, as depicted in one of the photographs, is hypostasis and contact pallor. The defence did not challenge this in the trial. I can only assume that Doctors James, Ansford and Cordner agreed with it.

Professor Thomas also criticised the proof of bruising and grip marks that, as I said, *Today Tonight* exploited by showing photographs of Anna-Jane's lower legs. Professor Thomas's views are not new: he expressed them on *Four Corners* some years ago. Dr James, then chief forensic pathologist for South Australia, examined them and agreed that histopathology failed to confirm that one of the alleged bruises on the inner aspect of the left ankle was a bruise. I repeat—failed to confirm, which does not necessarily mean that this particular mark was not a bruise.

The explanation for the failure to identify bruising on the inner left ankle could be either that the mark was not a bruise or that the tissue removed from that area for histopathology did not contain the bruised area, but sections of the other marks on the front of the legs clearly confirm their nature as bruises. Dr James disagreed with Professor Thomas's opinion on the significance of the one mark not being confirmed as a bruise. Dr James queried Professor Thomas's logic. For instance, Dr James said:

> If Professor Thomas had a case of manual strangulation and found the expected row of neck bruises on one side of the victim's neck from finger pressure and failed to confirm a bruise on the opposite side of the neck from the thumb, would he therefore exclude manual strangulation as a cause of death?

In other words, he concluded:

While the opposing thumb bruise will corroborate a grip mark, the opposite is not true.

There is no reason I should not accept Dr James's expert opinion on this. About the matter of bruises on the left leg: *Today Tonight* neglected to tell its viewers that Dr Cordner, also a professor and, at the time of the trial, head of the Victorian Institute of Forensic Medicine, said that the bruising was consistent with being gripped with a hand. Dr Ansford agreed: the bruises could have been caused by fingers or by a variety of other causes. Both doctors were witnesses for the defence, not the Crown. Both doctors were deemed to be experts in forensic pathology, unlike Professor Thomas, who was a histopathologist.

Professor Thomas was not a forensic pathologist when he appeared on *Four Corners* and, I am told, had not carried out a post mortem investigation on a homicide case in South Australia. I am not sure of his current expertise in forensic pathology. I can tell members that in 1998 Professor Thomas was called as an expert witness for a defendant charged with having made a false representation to the police. Magistrate Baldino's sentencing remarks are pertinent, given Professor Thomas's preparedness to question the veracity of the forensic evidence in the Cheney case. Magistrate Baldino says:

I formed the distinct impression that the Professor's views, opinions and hypothesis were not entirely impartial and independent. In this regard I am compelled to agree with the prosecution submission that Professor Thomas was 'obviously not an unbiased witness'. As a general principle it should never be overlooked that an expert's role is to assist the court rather than to go into battle for the party which hires his forensic skills. The absence of independence in an expert's evidence renders it unreliable and unsatisfactory.

There was no such partiality or lack of independence in the Cheney case. After the committal hearing, the Director of Public Prosecutions asked Dr James to review Dr Manock's views, which he did. Dr James agreed in the main with Dr Manock, but differed with his views on how some of the findings might be interpreted.

In fairness to Henry Keogh, and consistent with his role as an independent prosecutor, the Director of Public Prosecutions called both Drs Manock and James to give evidence at the trial. Before the trial Dr James, at the request of defence counsel, made available the pathology evidence for Drs Cordner and Collins. In contrast to the impression given that Dr Manock was incompetent, it is worth noting that Dr Cordner, who was accepted by the trial court as an expert forensic witness, agreed with Dr Manock on three important matters. Dr Cordner agreed at the trial that Anna-Jane's death was suspicious, Dr Manock's theory could be a possibility of how Anna-Jane's death was caused, and the bruises on her left leg were consistent with a grip mark. Significantly, none of the pathologists who gave evidence at Henry Keogh's trial said that the bruising could have occurred after death.

Dr Manock said the bruises to Anna-Jane's leg and head were less than four hours old, while Dr James said they occurred three to four hours before death. Dr Ansford said the bruises probably occurred within six hours of death and that some would say three hours, whereas Dr Cordner said that the bruises were recent and within 24 hours of death. Dr Cordner also agreed, given that the bruises were not apparent one hour after death but were obvious 36 hours later, that it would indicate bruising closer to the time of death. The jury heard all this information.

One can conclude from these events that Dr Manock's views were subjected to scrutiny by three peers, two of whom were engaged on behalf of Henry Keogh, as well as scrutiny in the court. I should also say at this point that the criticism of Dr Manock was dealt with in the petition and was well known to Henry Keogh's defence counsel at the time of the second trial and appeal. Furthermore, Henry Keogh's petition in 1996 to the governor to exercise the prerogative of mercy was based on the assertion that the verdict was unsafe because Dr Manock's findings were unreliable and, like the *Today Tonight* story, the petition argued that this unreliability has been demonstrated by the coronial inquest into his findings in the death of three children. The governor dismissed the petition.

Nothing in the petition could correctly be described as fresh evidence not previously before the court. I suspect Henry Keogh's defence counsel concluded, as did those who advised his excellency the governor in 1996, that neither the evidence produced at the inquests, nor the coronial findings, could lead to any real doubts as to Dr Manock's expertise to conduct the autopsy on Anna-Jane Cheney.

Not only did *Today Tonight* attack Paul Rofe and Dr Manock but also the South Australia Police were criticised for not following basic procedures at the scene of Anna-Jane's death. The criticism relies on procedures outlined in the police crime scene forensic procedures manual, a manual that was formally endorsed by the then commissioner of police, David Hunt, in 1996—almost two years after Anna-Jane's death. That aside, the manual is a set of guidelines that identify the nature and scope of the work performed by police crime scene investigators. It was designed to promote innovation and improvement. It was written with the understanding that crime scenes differ. The manual does not, nor has it ever, applied to the State Forensic Science Centre staff.

The crime scene investigator who attended the scene of Anna-Jane's death did not assess the scene as a crime scene. He took a few photographs for the purpose of the coronial inquest. The death was not assumed to be owing to a criminal act at that time. The information I have been given confirms that the investigator followed the guidelines based on his assessment of the death scene. It seems to me that the initial police response was based on the belief that Anna-Jane's death was accidental. Her death was not treated as suspicious until after the post mortem.

There is no evidence that Anna-Jane's body was in any way tidied up. Certainly the photographs do not depict this. The photographs themselves have been criticised. This was raised in the second petition and was reviewed by the Solicitor General. *Today Tonight* would have its viewers believe that there is something sinister about the photographs taken during the autopsy. In 1994 it was the policy of the State Forensic Science Centre to take only black and white photographs. For the purposes of examining suspected bruises, black and white photographs are useful because they can be enhanced better than can colour photographs to help with the examination. Therefore, it is quite wrong to suggest that the use of black and white photographs was a poor technique—it was a good practice.

The controversy over the insurance policies, including the $36 payment, was canvassed exhaustively at the trial. The assertion that the $36 payment is startling new evidence is wrong, mischievously so. In my view there was nothing new in the *Today Tonight* program. Given the circumstantial nature of the case, the use made of Dr Manock's evidence, and the fact that the most critical aspects of that evidence were confirmed by other evidence, the assertions made on the

Today Tonight program overstate the extent to which the Crown relied on the competence of Dr Manock.

Keogh was convicted, had an appeal in the Supreme Court, an application for leave to appeal to the High Court and two petitions for mercy. None of the points raised are fresh evidence. Indeed, the High Court observed:

> The criticisms being advanced of Dr Manock during the inquest were actually canvassed between Henry Keogh and his legal advisers not only before the appeal to the Court of Criminal Appeal but actually during the conduct of the trial itself. So, it was a matter not only of public record but a matter that had come to the attention of Keogh and his legal advisers.

These are the facts, and only a few people whose true motives are not evident cannot accept them. I remind the producers of *Today Tonight* that, in broadcasting current affairs programs, commercial television operators should, according to their own code of practice, present factual material and represent viewpoints fairly and with balance, having regard to the circumstances at the time of preparing and broadcasting the program. I believe that the *Today Tonight* story breached this principle of decency and, in doing so, has failed the most basic test that a news or current affairs program faces.

As I said at the outset, it is deplorable that, despite the family's requests, the media and in particular *Today Tonight* continued to use personal and forensic photographs of Anna-Jane Cheney. In the case of the 17 March broadcast, the photographs served no substantial purpose, given the assertions made. Concern for the bereaved family was clearly not uppermost in the mind of those who decided to put the story to air. Enough is enough. The same justice that is due to those accused of crimes is also due to victims of crime. Justice was done to Henry Keogh; let it be done also to the deceased, Anna-Jane, and to her family.

STATUTES AMENDMENT (HONESTY AND ACCOUNTABILITY IN GOVERNMENT) BILL

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

No. 1. Page 15, lines 10 and 11 (clause 18)—Leave out. "or as an employee of a contractor or otherwise directly or indirectly on behalf of a contractor"

No. 2. Page 15, line 12 (clause 18)—Leave out "advisory board and insert:

unincorporated body with a function of advising a public sector agency

No. 3. Page 16, line 14 (clause 18)—Leave out "the public sector agency" and insert:

a public sector agency

No. 4. Page 16, lines 20 and 21 (clause 18)—Leave out subparagraph (ii) and insert

(ii) in the case of a senior official or employee appointed under an Act other than this Act—the Minister responsible for the administration of the Act; or

No. 5. Page 17, line 6 (clause 18)—After "declared" insert:

by another Act or

No. 6. Page 18, lines 2 and 3 (clause 18)—Leave out "in a public sector agency".

No. 7. Page 22, line—31 (clause 21)—After "Division" insert:

(other than an offence consisting of culpable negligence)

No. 8. Page 22, line 40 (clause 2 1)—After "Division" insert:

for which a criminal penalty is fixed (other than a contravention consisting of culpable negligence)

No. 9. Page 23, lines 30 to 33 (clause 21)—Leave out subsection (4).

No. 10. Page 33, line 3 (clause 28)—After "this Act" insert:

a corporate agency member

No. 11. Page 33, line 6 (clause 28)—After "in the case of' insert:

a corporate agency member or

No. 12. Page 33, line 8 (clause 28)—After "or the" insert:

body corporate or

No. 13 Page 33 (clause 28)—After line 8 insert the following:

(f) by inserting after subsection (3) the following subsection:

(4) This section does not apply to a corporate agency member if provisions of the Public Corporations Act 1993 apply to the body corporate.

RIVER MURRAY BILL

In committee.

(Continued from 31 March. Page 2622.)

Clause 9.

The Hon. D.C. KOTZ: Mr Chairman, I draw your attention to the state of the committee.

A quorum having been formed:

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

Page 15, after line 12—Insert:

(1a) The minister—

(a) must consult with prescribed persons, bodies or authorities when acting in prescribed circumstances; and

(b) should, when consulting with indigenous peoples under subsection (1)(d), give special consideration to their particular needs.

The amendment arises from consultation with local government and indigenous groups. The amendment, in paragraph (a), will require the minister to consult with prescribed bodies in prescribed circumstances. 'Prescribed bodies' will include major stakeholders, such as the Murray Mallee Local Government Association, and I advise the member that I let the association know that it would specifically include them—Murray and Mallee LGA, for the benefit of the member opposite—and relevant Aboriginal consultative committees while negotiations continue on what specific matters will be set out in regulation to attract this provision. It is likely that they will include any changes to the objectives for the River Murray, although since we have lost that particular provision I guess that is redundant, and the minister's implementation strategy; and paragraph (b) gives special consideration to the needs of indigenous people when consulting them. I think that, in part, picks up the concerns that the member for Mitchell expressed the other day. The amendment will assist indigenous people to make an effective contribution to identifying the goals and outcomes to be pursued in the administration of the act. The particular needs of indigenous people may include, for example, their special interest in the land and the manner of giving notification and engaging in discussion.

Mr BRINDAL: Would it not be easier to question the first page of the minister's functions? It is up to the minister.

The Hon. J.D. HILL: I am happy to facilitate this matter in whichever way is easier for the committee.

The CHAIRMAN: As I understand it, the member for Unley is seeking to ask more questions than is normally permitted, because of the length of this clause.

Mr BRINDAL: It is also the fact that the amendment moved by the minister, correctly being moved now, actually comes virtually a page into the clause. So, what we are going to do is move the amendment, put it in, and then come back to the clause and start to re-question the thing. We are going backwards and forwards, and it makes it a bit difficult for all members, I think.

The CHAIRMAN: The chair will be accommodating in that respect. The committee is to facilitate and clarify

discussion and matters relating to the bill, so we will do that in the easiest and most reasonable way.

Mrs REDMOND: I want to clarify what the minister said in relation to the proposed amendment. I followed the first part, which is the part of the first proposed amendment that I know from 108(1), but he read out another bit after that proposed amendment. Was that a statement of how the minister intends that that measure will be exercised by him?

The Hon. J.D. HILL: Yes.

Mr BRINDAL: I think the member for Chaffey is pondering this, so I will ask the question anyway. We were discussing whether the wording 'give special consideration to their particular needs' is necessary. For the benefit of the committee, the minister's proposed subsection (1a)(b) refers to, under subsection (1)(d), giving special consideration to the particular needs of indigenous peoples. If you are to consult them, it seems a bit superfluous to provide for giving special consideration to their particular needs where, by consulting them, that appears to be what you will be doing anyway.

The Hon. J.D. HILL: You might be right, but this is an abundance of politeness to make clear what we intend to do. In my explanation I stated that 'particular needs' may include special interest in land, the manner of giving notification and engaging in discussion. As the member for Newland would probably know, indigenous people do not necessarily go through the same cultural forms that non-indigenous people go through. This is really to say we will be sensitive to the way they like to do things.

Mrs MAYWALD: I understand that the indigenous communities have specific needs, but this should also apply to the broader community. Our irrigation communities have certain times of the year when harvest and vintage and those sorts of issues are of concern and, if consultation is undertaken when people are at their busiest, they are unlikely to give their full attention and import to it. In line with my previous amendments to the objects to ensure that indigenous people and the broader community are considered with equal weight, that should be amended also.

The Hon. J.D. HILL: I am happy to pick that up too; we will put in a third point if the honourable member so likes. I will ask parliamentary counsel to draft something and we will do it now.

Mr BRINDAL: In the minister's proposed amendment if the words 'indigenous peoples' were substituted so that, under subsection (1)(d) regard should be had for the particular needs of all relevant people, that would cover the member for Chaffey's point.

The CHAIRMAN: The minister has given an undertaking that he will have something drafted to cover the point raised by the members for Chaffey and Unley.

Mr BRINDAL: I am prepared to accept the minister's word that he will do that. We will not oppose the amendment.

The CHAIRMAN: I put the amendment, noting the minister's commitment to take into account the point raised by the member for Chaffey.

Amendment carried.

Mr BRINDAL: I move:

Page 15, after line 16—Insert:

(2a) The Minister should adopt a leadership role in relation to the management of the Murray-Darling Basin.

The purpose of this amendment is really simple, and I do not need to explain it.

The Hon. J.D. HILL: I accept the amendment.

Amendment carried.

Mrs REDMOND: In relation to the drafting, I notice that, just below where the new subclause that is being drafted will be inserted, subclause (2) provides that the administration of this act and the Murray-Darling Basin Act must be committed to the same minister. That is fine. Subclause (3)(b) provides that the minister has power to do anything necessary, expedient or incidental to administering this act. I have no difficulty with that, but I am a bit puzzled why in this act the minister needs to be given any power to administer the Murray-Darling Basin Act. It would seem to me that, the minister having already been automatically committed in the section above to being the minister responsible for the Murray-Darling Basin Act, pursuant to that act the minister already has the power to do anything incidental and necessary to administer that act.

The Hon. J.D. HILL: As I understand it, there may be some programs in which I as the minister am involved and which may rely on the authority of both acts. So, to make clear that I have these powers, both those acts have been included in this provision.

Mrs MAYWALD: We have had discussion around the house and at this time we have a set of words that may require tidying up between this place and another place. I move:

Page 15, after line 12—
After paragraph (b)—Insert:
(c) should, in consulting with other people, give consideration to any special needs that they may have in the circumstances.

Amendment carried.

Mr BRINDAL: In further clarification of the member for Heysen's question, I understand that, prior to the introduction of this bill, there was some debate within executive government about the minister's role as the constructing authority. I think I saw as minister a legal opinion which stated that the lead minister for the Murray-Darling Basin Commission in South Australia was automatically the constructing authority and that it was a non-delegatable power and that other ministers—for example the then government infrastructure minister—thought he might be. This will get to the nub of the member for Heysen's question: my understanding of this clause and clauses like it is to make it absolutely clear in future where statutory responsibility lies vis-a-vis executive governments, which minister is responsible, who answers to the council, is the constructing authority and basically has all the legal entity of being our representative on that council. Is that correct?

The Hon. J.D. HILL: I thank the member for his explanation of the clause; it was a very good one.

Mr WILLIAMS: I wish to deal with the same theme as that touched on by the member for Heysen and by me when we were last considering this bill. The drafting of bills is becoming more complicated. Why is it necessary that it is not just implied by the bill but set out in clauses therein that the minister should do all these things? I should have thought it would be implied that he do many of the things set out. I refer particularly to subclause (k), paragraphs (i) and (ii), which provide that it is for the minister to consider whether further amendments to this act are needed or whether additional acts should be required as related operational acts. I should have thought that would be absolutely implicit—

An honourable member interjecting:

Mr WILLIAMS: —and, as the member for Heysen said, an automatic function of the minister under this act. Subclause (3)(a) talks about the minister's performing the functions of minister under the act. Clause 8 talks about

furthering the objects of the act or the ORMs. Clause 8—the clause which the committee had finished discussing just prior to the consideration of this clause—states exactly that. So, we are just repeating, might I say, the bleeding obvious. Why we are putting all these superfluous clauses in the bill? It makes the bill much more bulky than it needs to be. Have the courts been denying that these powers and obligations are implied when ministers are given these acts to administer?

The Hon. J.D. HILL: As I understand it, from time to time the courts do. Advice from parliamentary counsel is that one ought to be more explicit about what one's powers are, and that is why it has been drafted in this form. From another point of view, the public then knows very clearly what it is that I am expected to do, and the committee we are going to establish knows that, too. It gives it something it can check off against. In relation to the more legal question that the honourable member asked, that is true.

Clause as amended passed.

Clause 10.

Mr WILLIAMS: I move:

Page 16, line 14—Leave out '12' and insert '6'

This is a simple amendment.

The Hon. J.D. HILL: I accept that.

Amendment carried; clause as amended passed.

Clause 11.

The Hon. J.D. HILL: I would like to talk generally about this matter. Our intention was to have a five year term; others have said to me three years is probably long enough. I will put it another way: five years is too long, because it may mean that there would be a whole parliamentary term when there was no report. I tend to agree with that. I am intending to leave the three year term as provided in the bill now.

An amendment has also been moved by the member for Davenport to have the environment EPA do some reporting, and this would replace paragraph (b) of that clause. As a way through, I am suggesting to leave it as a three year frame for paragraphs (a) and (b) in the current act and then accept, in part, the member for Davenport's amendment, but not in the form that he is suggesting. What I want to do—and I have an amendment (although I am not sure of the number)—is require the state of the environment report, which is within the EPA Act and which is done as an independent report every five years, to include a separate chapter relating to the River Murray. So we would then get three things, two of which are as follows:

(a) the assessment of the interaction between this act, the related operational acts and any other act considered relevant by the minister;
(b) an assessment of the state of the River Murray, especially taking into account the ORMs.

So, we get both those things. We would also get the annual reports which I would have to provide and which would list any PARs or development actions, or whatever. In addition to that, we would have the state of the environment report having a chapter devoted to the River Murray. If members would support that, that would be a good way of getting a resolution that picks up most of the concerns that have been raised.

Mr BRINDAL: The opposition was particularly concerned when the minister at one stage was proposing to move from three to five years because, as the minister pointed out, that would have meant in the complete parliamentary term of some governments there would be no report on the river, and we considered that to be too long a period. The minister has graciously acknowledged that point. I obviously have not consulted the member for Davenport, and the amendment stands in his mind. On behalf of the opposition, I thank the minister for reverting to the three years. I am quite sure that, when the member for Davenport comes down, we can briefly discuss it with him. It sounds, prima facie—and that is a good word in this parliament nowadays—like a reasonable compromise.

Mr VENNING: This clause provides that the review 'must' be part of the annual report for each year. Would it not be better to use the word 'could' or 'should' rather than 'must'? The annual report will come out at a certain time each year, and this report may be very extensive. Is the minister quite firm on the word 'must' or could there be an option?

The Hon. J.D. HILL: There will be a review every three years and in that third year it will form part of the annual report. That is what it is really saying. Every year there will be an annual report, and in every third year there will be an enhanced annual report which will contain the elements in paragraphs (a) and (b). How many reports do you want to get? All of that material will appear on a three-yearly basis, but other material will appear on an annual basis.

The CHAIRMAN: Does the minister still wish to move his amendment?

The Hon. J.D. HILL: No, as long as the opposition supports the general direction in which I am intending to go.

The Hon. I.F. EVANS: I move:

Page 16, lines 20 and 21—Leave out paragraph (b).

The purpose of this amendment is to have the EPA prepare the report on the River Murray which the minister proposes in his legislation and then report directly to the presiding officers so that that report can be tabled in the house. In that way, the house will get an independent report directly from the EPA. If the minister has to produce the report, the minister's office will have oversight of that report and there will be more of a ministerial influence on the outcome of that report than there would be if the EPA independently prepared the report and then gave it to the presiding officers. The purpose of the amendment is to make sure that the house gets independent advice on the state of the river.

The other issue involved in the amendment is that there is to be a report between now and the next election and a report every three years so that every parliament gets the opportunity to consider the report. Having a reporting period of longer than four years, it is possible that the parliaments will not receive the report. I understand that the government has conceded that point, and I thank the minister for that. The other issue simply involves the independent EPA reporting directly to the parliament rather than the minister's office having the report done. It just provides a more independent source for the parliament.

The Hon. J.D. HILL: I do not accept that amendment. The member for Davenport was not in the chamber when I explained what I propose. I propose to concede the point on three years, so we will have a three-yearly report. I intend to move my existing provisions, but I also have an amendment which would require a state of the environment report (which is compiled by the EPA) to have a chapter relating to the River Murray. That will be an additional report which will be provided to the parliament in the normal way from an independent body.

I refer to the member for Davenport's proposed amendment to the EPA. I will table this document, but I just want

to read a couple of elements from it. The EPA, of course, looks at particular things in its report, but it says:

> [In the future] the EPA will periodically undertake a full and comprehensive reassessment of the water quality data from the River Murray monitoring program. However—

and this is the key to the three-year issue and why I am proposing the way we are going—

> given the natural variability in water quality associated with variations in flow from one year to the next, meaningful assessment of trends over time require data for at least five years and preferably longer. Assessment of trends within a shorter period of time runs the risk that changes may simply be due to natural occurrences and may not be substantiated with further monitoring. The state of environment report would be an appropriate mechanism for reporting on the state and condition of the River Murray. State of environment reporting is a statutory requirement under the Environment Protection Act and is required to be undertaken every five years.

I table this document. In essence, I am saying that, if the committee concurs, we will have a state of the environment report done independently every five years—and the EPA says that is sensible. In addition, every three years there will be a review of this act to include the matters that are provided in paragraphs (a) and (b). This picks up the best of both worlds. The opposition is saying that it wants three-yearly reviews but that it wants the EPA to do it. The EPA says that three years is too quick and that they think it should be every five years. This allows both of those elements to occur in a reasonably sensible way.

The Hon. I.F. EVANS: There is some validity to the EPA's argument in the first period of three years, but there is nothing to stop the EPA report on the state of the environment—which, if the minister has his way, would include a chapter on the River Murray—going back over previous data. The EPA has data now on the quality of water and the condition of the River Murray. There is nothing to stop the EPA saying in its first report on the status of the environment (including a chapter on the Murray) that, over the last 10 years, the water quality in the River Murray has done X or the condition of the River Murray is Y. That information is available to the EPA now, and it is more than likely on its web site, because it tends to put that information on its web site. So, there is no valid reason why the EPA cannot report over a longer period than three years.

We are not proposing—and I do not think the amendment reads—that the EPA report be constricted only to reporting information on that three-year period. It is a report at every third year on the data available to it. Of course, it could go back five, 10 or 20 years and provide an analysis of the trends based on the three-year review that it happens to be making. So, I think the issue is not quite as simple as the minister puts it.

The committee will have to ask itself: what would be in the minister's report that would be different from the EPA report on the condition of the River Murray, and why would the minister want to do a report that would not be done by the independent body? One could assume that the minister is likely to try to get an outside body to do a report that puts the best possible gloss on the issues that the government wants to highlight in relation to the Murray.

At the end of the day, I think the committee is genuine in its attempt to gain accurate information so that we can make the right policy choice in relation to the Murray. The way to do that, in my view, is not to have a report constructed by the minister's office; rather, it should be constructed by the independent EPA and given directly to the house for the house to consider. We know that the EPA can get all the advice and information that the minister can get. There is nothing that the EPA cannot report on that the minister's own consultant would not report on. So, there is absolutely nothing that could be in the minister's report that would not already be in the EPA report. What concerns me is that what the minister is really trying to lock in is a formal obligation for him to report, which gives him an opportunity every three years to spin the right message based not only on advice from the EPA but on other advice, and he or she can couch it in the terms that they see fit.

I think there is a genuineness in the house to try to get information to the house in the most independent way possible for the house to consider that information so that we can make the right policy choice. Having been a minister, I know the EPA collects information over long periods, because many environmental issues are based on long-term trends—greenhouse gas, air quality, sea water quality off the coast and water quality are good examples. I know that the EPA does state of the environment reports every five years, and I know that a trend measure mechanism is needed for those environmental issues. The point I make is that, just because the EPA has to report every third year, the EPA is not restricted to only reporting information in that three year period. It can go back five, 10 or 15 years and report the trend up until that three year mark.

With due respect, minister, there would be nothing in the EPA report independently given to the parliament that would not already be in your report which would come through a minister's office. I know what happens when matters go to the minister's office—and this is not a criticism of the minister: this is the reality. Ministers' offices are full of political staff, and political staff will pick up the report and try to put a spin on it. If it is favourable to the government, it will be a positive spin; if it is negative to the opposition, it will put that spin on it. That is what people in ministers' offices do: they look at information to protect the minister. I am saying to the house that, through this amendment, there is an opportunity to put in place a mechanism which ensures that this house receives independent information that has not gone through the minister's office, that is, it comes direct from the EPA to this house.

I think that is the appropriate mechanism for this report. I see no need for this report to go to the minister's office. I believe that there is some advantage to the house in gaining independent information by the report coming directly to this chamber.

The Hon. J.D. HILL: I have listened to the member for Davenport's comments. I say to him that the compromise that I have suggested is a sensible one. I do not know whether I did it, but I now table the advice from the EPA, which, to me, says that five years is the appropriate time frame. In addition to that, I point out as a matter of practical commonsense that the EPA (as the member would know, having been the minister responsible)—and I do not know whether it reported during his term of office—goes through an extensive process in relation to the state of the environment report. It does take up a considerable amount of resources. A special committee is established and a procedure is gone through, and it does take resources to do it. We do that every five years.

The member is suggesting that, in addition to the EPA doing that, it would have to go through a separate exercise every three years. Therefore, there will be lumpy bits, I suppose, as they did it. The recommendation which I have made to the house is a sensible way through it. It picks up the time frame issues and the independent advice being given

about which the opposition was concerned. It also allows me to make a report to the committee every three years. I would want to maintain that flexibility as the responsible minister, as I think any other minister would.

The report that I may give into an assessment of the River Murray may take into account more things than, for example, the EPA would take into account. I might give an assessment about the political situation in terms of the River Murray in relation to arrangements with the other states and the Murray-Darling Basin Council. That is not something that the EPA could quite properly take into account. I will not concede on this point.

The Hon. P.F. CONLON: Could the minister tell me whether we are in danger of the River Murray drying up before the opposition does?

The CHAIRMAN: I think that was a philosophical point by the minister!

The Hon. D.C. KOTZ: That is a hard act to follow, its being such a significant contribution from the minister. However, at this point I compliment the minister in terms of the compromise which he has outlined in relation to three year review as opposed to the five year one. However, I support entirely the member for Davenport's amendment in terms of the independent body that should be utilised to assess the matters addressed in clause 11, that is, the state of the River Murray, especially taking into account the ORMs. I understand that one of the minister's concerns appears to be that, if he wished to make a political statement relating to the Murray in terms of policy of the government at the time, he feels that he might be compromised by having a report tabled directly to this parliament.

I suggest that that would be easily overcome because the minister can make any assessment at any time and attach it to any paper at any time that may be tabled in this parliament. I do not necessarily see that the minister would be compromised in any way in terms of any further comment that he might wish to make on a review matter, whether it is at the three year period or the five year period. My absolute concern at this point is the arguments being put in terms of supporting another group of people, so that two groups of people are undertaking an assessment of the River Murray. I would have thought that the member for Davenport's suggestion was quite sensible and quite practical, and certainly in a scientific sense would probably be more technical in terms of the data that is collected over a period, whether it be the three years or five years.

In relation to the resources about which the minister is talking in terms of the EPA undertaking the two jobs, that is, the three year review as well as the five year review, I would have thought that an outside group would have to be resourced in any case. If those resources were applied to the EPA to ensure that a review is undertaken over three years, the EPA would have the resources which were required and necessary to enable it to conduct all the reviews on a continuous basis. My argument is that we are talking about continuity, and I would have thought that it was quite applicable, certainly practical and sensible, that one database actually held all the material on any assessment that was conducted under any review.

From that point of view, I would ask that the minister reconsider the member for Davenport's amendment relating to an independent body of the EPA in terms of continuity. The technical aspects of data gathering should be a genuine consideration of the minister, because I do not believe it will compromise him or any other minister that may hold the position at any other time.

The Hon. J.D. HILL: I heard what the member for Newland had to say. I am not convinced by the argument. These are substantially different processes. I thought that the member for Davenport's suggestion to have the EPA look at it was a good one. I do not disagree with that. But the EPA, as the honourable member knows, will come at it from a particular focus. The honourable member mentioned scientific data. The EPA will come at it from a highly analytical, scientific point of view. The report that would be done through my office would look at the ORMs and would take into account the human aspects of it, for example, the social and economic aspects—all the issues that are contained within this act.

They are not functions that are properly within the EPA. Two sets of functions can and ought to be done and, while it is true that the minister can, at any time, make any report necessary, I think it is sensible that the committee we are establishing should receive a regular report from the government, or from the authority looking at the river, to say, 'This is what we have done; this is what we believe the situation is,' and then the honourable member, or whoever is on the committee, can analyse that and ask questions about it and we can be held accountable.

This material will come substantially out of the Department of Water, Land and Biodiversity Conservation, which will provide its assessment, if one likes, of where we are at. It will develop protocols about how it does that, but that is essentially what it will be. The EPA will come in every five years and do a rigorous scientific analysis of the health of the river. It will be different sort of data.

Mrs MAYWALD: In the minister's subsequent amendment in relation to the compromise position in respect of a five-year assessment done by the EPA, is that a report that will be tabled in parliament or is it a report to the minister? Does the EPA legislation require it to be tabled in parliament?

The Hon. J.D. HILL: Yes, that is exactly correct. I think that there have been only two EPA state of the environment reports. We are about to go through the process of a third. That is tabled automatically in the parliament so that it becomes a document of the parliament. I think that adequately addresses it. However, I would say one other thing. The EPA has informed me that, in its forthcoming report, it is able to include a chapter about the River Murray, which will be tabled within the next 12 months.

Mr WILLIAMS: I cannot see the rationale of the minister's reporting on a three-yearly basis. I cannot see the rationale of having a five-yearly reporting system. The parliament has a four-year cycle. I invite the minister to think about this between houses. He may wish to reconsider this aspect. I would have thought it sensible to provide in the act that the minister must report at least once to each parliament. I do not know the best way to write that, so that is why I have not sought to put an amendment before the committee.

The minister might consider, between houses, that the minimum reporting period should, in fact, be four years or to each parliament; but it should also not prevent the minister's reporting more regularly, if he so desires.

The Hon. J.D. HILL: There is nothing to stop my reporting more regularly. It is saying that I must do it at least every three years. If the opposition wants to do it every four years, I am happy with that, because we suggested five and backed down because the opposition wanted three. But if the honourable member wants four, that is fine; I do not mind.

The Hon. D.C. KOTZ: The minister has slightly confused me so I am seeking a point of clarification on his last answer with respect to my support of the member for Davenport's amendment. The minister said that, obviously, two different reviews of the assessment will be undertaken by the EPA and the assessment that is sought under clause 3. The minister then undertakes a review of the act. Clause 11(1) provides:

> The minister must, on a three-yearly basis, undertake a review of the act.

Clause 11(2)(b) refers to 'an assessment of the state of the River Murray, especially taking into account the ORMs'. The minister seemed to imply that the minister's review would specifically be looking at the OHRMs and then suggested that there would be a look at different aspects by the EPA. I do find that somewhat confusing because the OHRMs are, of course, the objectives of the act and they cover just about every aspect that could possibly be thought of in terms of any review that looks at all aspects of the river. What is the minister actually saying?

The Hon. J.D. HILL: The honourable member is correct: the language is more or less the same in the two provisions. The point relates to where the bodies come from that do the assessment. The EPA is a regulatory, technical, scientifically based measuring body. It can count the number of droplets of this or the number of incidents of that, whereas my department (Department of Water, Land and Biodiversity Conservation) is a broader policy-based group. It does have scientific experts, too, and no doubt the EPA in its state of the environment report relies on its expertise when it pulls together all the material that it now pulls together for that report. It has a broader kind of understanding of issues, and that is really the point I am making.

Amendment negatived.

The CHAIRMAN: The consequence of that vote is that the foreshadowed amendment by the member for Davenport would lapse.

Mr BRINDAL: I do not quite understand that. Does the member for Davenport's subsequent amendment touch on what the minister said or not because that comes in much later? We will deal with that later. We will look at it over the dinner adjournment, because I am not sure whether or not it is a consequential amendment.

The CHAIRMAN: I believe it is. However, we will deal with clause 11.

Clause passed.

Clause 12.

The Hon. D.C. KOTZ: I would like the minister to explain subclause (3), which provides:

> A function of power delegated under this section may, if the instrument of delegation so provides, be further delegated.

This whole clause talks about the power of delegation, and provides:

> The minister may delegate to a body or person (including a person for the time being holding or acting in a specified office or position) a function or power of the minister under this or any other act.

Subclause (2) provides:

> A delegation under this section—
> (a) must be by instrument in writing; and
> (b) may be absolute or conditional; and
> (c) does not derogate from the power of the minister to act in any matter; and
> (d) is revocable at will.

I have already referred to subclause (3). Does that mean that once the minister has delegated his power the person who receives that delegated power can further delegate his power, or is this the minister re-delegating?

The Hon. J.D. HILL: I understand this is a reasonably standard procedure, but it would depend on the second phrase: 'if the instrument of delegation so provides'. So the minister could delegate particular duties to the CE and the CE would have to perform them unless the minister said, 'and the CE can delegate further down the track'. That is fairly standard procedure.

Mr WILLIAMS: Clause 12(1) provides:

> The minister may delegate to a body or person (including a person for the time being holding or acting in a specified office or position) a function or power of the minister under this or any other act.

It intrigues me why this act would give the minister the power to delegate a power he has by virtue of some other act. Can he explain?

The Hon. J.D. HILL: At first blush it looks as though I have power to delegate anything under any other act that might exist in South Australia or, indeed, any other act I may have. It means that the Minister for the River Murray has power over this act and, under the processes, a whole lot of other acts have been amended, where I now have powers. So, those powers that I have, for example, under the Development Act, Local Government Act or whatever other act referred to, can be delegated, but only that bit that relates to my powers under this general act. Does that make sense?

Mr WILLIAMS: It does make sense, but I am wondering why it is not in those other acts that those powers flow to you and you can delegate them under those other acts.

The Hon. J.D. HILL: In those other acts the minister who is generally in charge of that act will have the powers to delegate in regard to all areas where he or she has power, but there are certain sections of those other acts where I have some powers and I can delegate those powers in the same way I can delegate powers under the principal act. It does not mean I can delegate powers I do not have. Ministers have to delegate in order to exercise their power—that is the way government works and there are certain things you cannot delegate, as the member for Newland knows, because I held up a delegation at one stage for a while, out of bloody mindedness. But after she appealed to me I conceded and allowed her to go ahead and I am glad she did, otherwise I would have to be doing it now. That is the way the system works.

Mr WILLIAMS: As final clarification, would it not be better if, instead of saying 'or any other act' it said 'any other related act', bearing in mind that under the interpretations in clause 3 there is an interpretation of the so related operational acts? It is defined and under clause 5 there is interaction with other acts and it lists all the related operational acts. I assume this only applies to those operational related acts, and I would have thought it would be good drafting if it specified that, and then the ambiguity to which the minister himself alluded to in his earlier reply may become more clear to the casual reader of this act.

The Hon. J.D. HILL: The member for MacKillop is an interesting person: he criticises the legislation for being too detailed and now we come to a minor detail and he wants to amplify it. The advice I am getting from parliamentary counsel is that the amendment he is suggesting would be redundant but not necessarily opposed by me. It would be

fine, but it does not add anything. We can put in those extra words if he so desires, but it will make the act that little bit more complicated.

Mr BRINDAL: To check with the minister, it is fairly standard. Subclause (2)(c) states:

(2) A delegation under this section—
(c) does not derogate from the power of the minister to act in any matter.

I assume it is the standard procedure which says that, while you may delegate any responsibility, if you do not like the delegation as it is exercised you can simply override. The second point (and I suggest the minister look at this between houses) is that it says that, 'The minister may delegate to a body or person. . . a function or power of the minister under this or any other act.' I suggest he asks counsel between the houses to check whether every and any function and power under this act is in fact delegatable because my recollection is that the ability of the minister to be the constructing authority under the Murray-Darling Act, which this act confers on him, was not delegatable. I distinctly remember one of my officers telling me that I could not delegate that power to any other minister. There may well be powers under this act which for other reasons are not delegatable. I suggest that the minister look at it between houses and see whether you can delegate any and every power or whether it should be amended to just those powers which it is possible to delegate.

The Hon. J.D. HILL: We will look at it, but if the other act says you cannot delegate it you cannot overturn it by this provision. In relation to the constructing authority, I hope the member is not suggesting I go out there with my wheelbarrow and cement and start building a wall on the River Murray. Obviously I have to delegate the construction of these things.

Mr BRINDAL: It was interesting. As it was put to me, certainly you can employ another government agency to do it, but you then delegate to the other agency. You are still the constructing authority; you cannot delegate to the minister to be the constructing authority, then get him to construct. You can employ his department to construct, but you remain the constructing authority. That is how some of the minister's officers explained it to me, and, as they are now his officers, as they should explain it to him.

Mrs MAYWALD: Does the power of delegation extend to the amendments to the Development Act also in respect of statutory instruments, that is, your decisions on PARs?

The Hon. J.D. HILL: Yes, I would have thought generally under PARs that most of those recommendations would have been done on a delegated authority. Yes, I can, is the answer. The committee needs to understand that because these powers are there does not mean they will be exercised in any particular way. This is to provide flexibility to allow a machine to be established that does the things we want to do and we will need to work out which bits of the machine will do which bits. If we knew that in advance we would have a bill that was about 15 times as long as this, so it is to provide flexibility to the minister to make those provisions.

Mr WILLIAMS: I move:

Page 16—
Line 28—After 'this' insert 'act'.
Line 29—Delete 'other' and insert 'related operational'.

The clause would then read:

The power of the minister under this act or any related operational act.

Amendment carried; clause as amended passed.

Clause 13.

Mrs REDMOND: I move:

Page 17, line 17—After 'identity card' insert:
and a copy of this act, or of any provision or provisions of this act that may be relevant to the exercise of the powers.

When the committee gets to clause 14 (which, no doubt, will be the subject of considerable debate), it will see that one of the things that subclause (1)(n) does, for instance, is enable an authorised officer to require a person to answer questions. Clause 15 provides that failure to answer a question pursuant to clause 14 is an offence with a maximum penalty of $20 000. So, the purpose of my amendment to this clause is simply to ensure that, if an authorised officer requires someone to answer a question pursuant to the bill, as well as showing an identity card (as is already provided for in the clause) they should have to provide to that person the basis upon which that person is required to answer. If a person is facing a penalty of up to $20 000, it is only reasonable that, as well as showing an identity card, the authorised officer is required to show to the person the basis upon which they are required to answer the question; otherwise, it seems to me to be patently unfair to an individual that they could face a penalty of that magnitude without having had explained to them—and having the authorised officer required to explain to them—the basis of the authority to ask the question and require the answer.

The Hon. J.D. HILL: I accept the principle being argued by the member for Heysen. I am not too sure that the wording in the member's amendment captures that as eloquently as did her spoken comments. I am prepared to accept the principle but not the member's amendment. We will do some work on the amendment between now and the other place and ensure that the member sees it before we do something up there.

We probably need something such as a pamphlet or brochure that summarises the provisions. Because it is in legal jargon, I believe that it would be a bit onerous to have the whole act being taken around, and it would not be very helpful either to the officers or the people being talked to. We will come up with a form of words—if the member is happy with that—to do what she wants.

Mrs REDMOND: I am happy to accept the minister's undertaking in that regard, and I am sure that he understands the point I was trying to make. The minister's assurance is sufficient for me to withdraw the amendment.

Amendment withdrawn.

Mr BRINDAL: I thank the member for Heysen; it is very noble of her. A number of amendments will be moved shortly. The member for Stuart, as the minister would know, is very passionate about this matter. All the amendments to be moved (and there is a whole raft of them, this being only one) seek not to take away the minister's power but basically to ensure that the minister's delegated power cannot be used in an excessive way by over-zealous officers. I believe that we can expedite a lot of this if the minister realises that this is not to put down his officers and is not to derogate from his powers, but rather to say (and I am sure the member for Stuart will talk about this in a minute) that no officer should be able to be excessive and that there should be checks and balances. That is the spirit in which the opposition is moving quite a few of its amendments.

Clause passed.

Clause 14.

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

Page 17—
Line 25—After 'authorised officer' insert:
, and board any vessel or craft
Line 26—After 'stopping' insert:
, securing
After line 27—insert:
(da) require a person apparently in charge of a vessel or craft to facilitate any boarding;
Page 18, line 25—After 'premises' insert:
(but may be exercised in respect of any vessel or craft)

The amendments to page 17 (lines 25, 26 and 27) and page 18 (line 25) relate to houseboats and vessels generally. The amendments insert additional powers relating to vessels and allow all powers to be exercised in relation to any vessel or craft, including a vessel being used for residential purposes (that is, a houseboat).

Enforcement provisions currently in the bill do not give sufficient power in relation to vessels on the river, including houseboats. It is apparent that the manner of use of vessels as residential premises is a fairly contentious issue for the river. Many aspects of houseboats or other river vessels are not well controlled through other legislation. The issue was raised by numerous people during the consultation process and, I gather, was pushed pretty hard by the local government representatives.

The majority of river users are considerate and careful, and I acknowledge the work of various boating associations in fostering river care. I put on the record that the Boating Industry Association (which was referred to last week, I think, by the member for Bragg) has been very helpful in the development of this bill. I acknowledge the various boating associations in fostering river care. However, it is essential for the River Murray Bill to be able to exert effective control over use of houseboats and other river vessels (for example, to control mooring practices and waste disposal).

The reality is that as some of these vessels are not part of any association there is great concern about the behaviour of these vessels (that is, how they relate to the river, and their activities on land and on water). Local government particularly is very keen that powers are created to deal with some of these activities. It is for that reason that we have picked up this measure.

Mr BRINDAL: I want to be absolutely sure. I understand the minister's reasoning; he will add this so his officers can enter a craft or vessel, even where the vessel is being used for residential purposes. We need to understand that, because he also provides elsewhere in the clause that you cannot go on to domestic properties. You are saying that there is an exception to entering domestic premises but, where the domestic premises are a vessel, then it is possible. The minister has just confirmed that, so he does not need to answer that. Further, the powers of entering residential premises are limited. Is there a difference between a residence and a shack, for instance? A shack forms a residence when people are living in it, but it is not necessarily a full-time residence. I do not want these powers to be draconian. One presumes that the circumstances whereby you would want to be able to enter houseboats are where there is discharge of grey water, sullage and black water.

By not being able to enter residential premises, does the minister not therefore limit the power of his inspectors to be able to see that people whose houses abut the river are not committing similar offences? The fact is that sewage seeping in from a leaking septic tank right on the river's edge is probably every bit as bad as a cracked sullage tank on the bottom of an old, crappy boat that somebody is living on.

The Hon. J.D. HILL: The honourable member makes a good point. I am finding out whether we do need that additional power. The reason for not including houses was the sensitivity expressed from time to time by members on the other side about a person's home being their castle. When we went through the Native Vegetation Act there was quite a lot of concern about that, so we were mindful of not including that provision. The vessels are an exception; it is just hard to work out how to control vessels which are not controlled in any other way when they are obviously doing something that is detrimental to the river. Other provisions such as in the Public Health Act and so on control shacks. I think it is also true to say that, if a shack were persistently polluting, we would be able to observe that from outside the shack, and the shack will not be moving from one part of the river to another from time to time. So, fewer powers would be required to deal with that situation. Some of these residential boats may be used by somebody just over a weekend. If on a vessel coming down the river they decided that throwing bottles or garbage or god knows what over the side was a reasonable thing to do, this would give officers the power to intervene.

Mr WILLIAMS: I fail to see why you need to make an exception just because it is a vessel. I understand the problem quite clearly but, as we have discussed on a number of bills in the short time I have been here, this parliament has consistently held to the principle that if an authorised officer needs to enter somebody's residence they must first obtain a warrant to do so from a magistrate. We have adopted that principle on a number of acts that I have seen go through this place, and I cannot see why we should throw away that principle purely because it concerns a vessel. I do not have a problem with somebody boarding a vessel; it is like walking into somebody's front yard and knocking on the door, but to enter the cabins on a vessel is to me exactly the same as entering a home. I am visualising a houseboat here. If one of your authorised officers came up, I do not see that this parliament should say that the authorised officer would need a magistrate's warrant to board the vessel and seek to talk with the operators or people in charge of the vessel but, if the officer wants to go into cabins etc. which form a residence on the vessel, they should be required to have the same authority that they would if that were a house or however else you would like to describe it on dry land.

The Hon. J.D. HILL: I think we are covering the point you are making. The practical issue with boats is that they are mobile and the occupants may not be there next week when you come back with your warrant. The advice I have is that an authorised officer may enter only with the cooperation of the owner or occupier of the vehicle or place. The authorised officer must obtain a warrant if they need to use force. So, they would be able to board but not enter without the cooperation of the owner. They would be able to get on board the vessel and say they think that something is being discharged and they want to come and have a look, and the person could say no, so they could not do that, but they could get on the vessel. I would imagine that in most cases people would cooperate at that point.

Mrs REDMOND: Now I am confused. I thought the power being given in clause 14(1)(c) was without any warrant to enter and inspect any vessel and require a vehicle to stop and so on. I also understood that there was to be an amendment to provide for boarding any vessel or craft so that they do not need a warrant to do that.

The Hon. J.D. HILL: Clause 14(5) qualifies those powers. You need to read this in conjunction with subclause

(5), which provides that an authorised officer may use force to enter any place or vehicle on the authority of a warrant issued by a magistrate. So, the officer can do all those things without force but, when force is required, they must have a warrant. As I understand from the debate, which the member for Stuart will remember, that is the same scheme that we employed in relation to native vegetation, and I believe it was acceptable to the house then.

Mr VENNING: Subclause 14(1)(d) provides that the minister may give directions with respect to stopping the movement of a vehicle, plant, equipment or any other thing. That seems to give tremendous power to the minister. If I was operating a heavy tractor such as, say, a D9 caterpillar and this person decided to come out and put up their hand expecting me to stop, this person could be unknown to me as the operator and if I did not stop I would be breaking the law. This is pretty high handed. I would be concerned about what 'or other thing' may mean. It could mean any sort of machine which in some instances could be dangerous to stop in a split second just by a stranger coming out into a paddock and holding up their hand. Should that happen and the machine ran over this person, I assume that the operator would be doubly liable, through breaking this act and also for injuring the officer.

The Hon. J.D. HILL: I do not think that is what we are intending. I make the general point that this provision is exactly the same as that to which we agreed in the native vegetation and water resources acts. The powers have to be exercised in a reasonable way. Subclause 14(1), which is the stem, provides that the authorised officer may, as may reasonably be required in connection with the administration of the act, at any reasonable time do certain things. It is subjective, certainly, but that subjective behaviour is able to be tested in a court of law. A court of law will apply an objective test to what is reasonable.

Mr VENNING: You do watch the program *Yes, Minister*; it will not be you or I who interprets the rules in this act. It will be these young, ambitious officers who are freshly appointed and who read this act. I know police officers similar to this. They will read this act, abide by the letter of the law and add a bit. I would like to see phrases such as 'or other thing' either taken out of the legislation or at least clarified as to what they could mean. Minister, you and I might be reasonable people, but your inspector or my operator may not be.

The Hon. J.D. HILL: If we knew what the other things were, we would have specified them. It is a catch-all, because somebody may develop something that may harm the river or the area which is not a vehicle, plant or equipment. I cannot think of what it could be—

Mr Brindal: An amphibious tank.

The Hon. J.D. HILL: That could well be considered a vehicle. It might be something; I do not know. The honourable member is worrying too much about this matter. These provisions occur in other acts. We chose those other acts, because they were agreeable to the house less than 12 months ago when we had this same debate. I was hoping that, by having the same provisions, we could avoid the same debate.

Mr GOLDSWORTHY: I am surprised that these powers of authorised officers dealt with under clause 14 are not already in other legislation or have not been given to officers within another agency such as the EPA. Do we really need to have them here at all?

The Hon. J.D. HILL: That is true. Other officers can do those things in pursuit of these acts, but they cannot do them in pursuit of this act. There are fisheries officers who would have a whole slew of powers that they could use in fisheries matters, but they cannot use those powers in relation to this act. National parks officers would have a whole slew of powers, but they cannot use those powers in relation to this act. I am not quite sure where you are coming from. We need to give particular powers to authorised officers to pursue the purposes of this act.

Mr GOLDSWORTHY: I understand what the minister is saying. However, surely if, for example, an officer from the EPA was going along the river carrying out some other duty, and they saw some sewage leaking out the bottom of a houseboat, they would have the power to address that issue—to pull up and talk to the owner and say, 'You have to attend to this.'

The Hon. J.D. HILL: They would in relation to sewage if it were polluting. However, if it was, say, creating some amenity issue or interfering with a particular species on land—there might be a whole range of things sewage could be doing other than polluting; I am being hypothetical here—or it might be doing other things that could be detrimental to the river, although not necessarily involving a pollutant issue, the EPA theoretically could not act in those circumstances. It may well be that the same officers will have powers under one act and also under this act. That is the logical thing that would happen. The measure is really to give those officers the powers to deal with all the issues within this act. Currently no officers have all those powers.

Mr BRINDAL: The member for Kavel asked a particularly intelligent question.

An honourable member interjecting:

Mr BRINDAL: I think it is a particularly intelligent question because it gets down to this: the member for Kavel is saying, 'Most of the authorised officers will be officers who used to be, say, with the department of water resources, and they will be authorised under the Water Resources Act in its latest amendation in 1997 or they will be officers of the EPA authorised under the EPA Act.' What the member for Kavel was saying is—and I think the minister has partly answered this: are extraordinary powers conferred under this act that are conferred under no other act and, therefore, authorised officers simply need this additional authorisation under this act, because they are getting some additional powers, or do the powers already exist in aggregate, in which case they are superfluous under this act?

The Hon. J.D. HILL: All these powers operate under any act. The Native Vegetation Act might say that an officer can enter any place. So, he enters that place, but if there is a pollution issue going on he cannot deal with that: all he can deal with is a native vegetation clearance issue. An authorised officer under the EPA Act may be able to inspect any place including the stratum lying below the surface of the land, etc., but if he finds that there is illegal water taking going on he cannot exercise power in relation to that because he does not have that power. We are giving the officers who will be dealing with this act the full range of duties that occur under this act and the appropriate powers to be able to do their job. That is all this is about. They are not extraordinary powers: they are the same powers that officers have in relation to other acts, but nobody has them in relation to this act.

Mr BRINDAL: The member for Kavel asks, and so do I: then why not just give them cross-delegation?

The Hon. R.J. McEwen interjecting:

Mr BRINDAL: I know that the Minister for Regional Development is strongly opinionated on many issues, but I

happen to know that you can cross-delegate authority. You could actually have all your officers given delegated authority from other acts. It is possible; it has happened in the past. For instance, in the past, we have delegated fisheries authority to local government officials. So, why not just cross-delegate the authority; why put it in a new act?

The Hon. J.D. HILL: I have answered the question as well as I can. My colleague the Minister for Regional Development says that there may well be officers who do not have these powers under any other act who are going to be River Murray officers. We have not specifically thought to do that, but there may well be some who are. The only job they will have is as a River Murray officer, so they will need a set of powers, but we may delegate some of these powers to other officers, such as fisheries officers or people who work in the River Murray area. They will get the necessary powers in relation to this act, and they will have them in relation to another act as well.

Mr VENNING: In clause 14(1)(j) we see the wording 'take photographs, films, audio, video or other recordings'. I would like it clarified. Does the word 'take' mean as in take the photograph? It does not say 'remove'. In other words, does it mean as in take a photograph, or does it mean that an officer can remove photographs, films, audio, video or other recordings? I think that needs to be spelt out a lot more clearly, because the way it reads there could mean physically take a photograph or physically remove a photograph.

The Hon. J.D. HILL: I take it that the member is referring to clause 14(1)(j)?

Mr Venning: Yes.

The Hon. J.D. HILL: In that sense, it does not mean to remove photographs; it means to take a photographic image in the normal sense of using a camera. However, 14(1)(l) is perhaps the clause that the member wants to look at. That clause provides that the officer can seize and retain anything that the authorised officer reasonably suspects. If an authorised officer were to find a photograph of the member for Schubert on a river boat polluting in some gross way, I suppose that could be removed and used as evidence. It might be a dirty video that you have highlighting your pollution activities up and down the river; I do not know what peculiarities some people might get into. But there is a theoretical possibility that a photograph could be taken in both senses of the word.

Mrs REDMOND: Given that we are now debating the clause in general, can the minister explain the rationale with respect to clause 14(1)(h)? Why do we want to get a magistrate's warrant for that particular circumstance, when you can do everything else under clause 14(1)—enter, inspect (and even dig up the ground), give directions, place markers, take samples, take photographs; all those other things. What is the rationale that requires, in subclause (h), the authority of a warrant issued by a magistrate, when all the other things seem to be just as serious and just as much in need of a magistrate's warrant?

The Hon. J.D. HILL: This is based on the historic, cooperative, consensual agreement that this house reached in relation to the Native Vegetation Act. This was in response to the member for Stuart's concerns, and we picked it up in relation to this area. The powers of authorised officers under this bill are based on the Water Resources Act and the new provisions inserted into the Native Vegetation Act. So, that is really the answer. I hope that satisfies the member.

Amendments carried.

Mr BRINDAL: I move:

Page 19, after line 6—Insert:

(8) If an authorised officer digs up any land under subsection (1), the authorised officer must, after taking such steps as the authorised officer thinks fit in the exercise of powers under that subsection, insofar as is reasonably practicable, take steps to ensure that the land is restored to such state as is reasonable in the circumstances.

I will not speak long to this amendment. We might be able to deal—

The Hon. J.D. Hill: We will accept it.

Amendment carried.

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

Page 19, after line 6—Insert:

(8) An authorised officer must, in taking any action under this section, have regard to any request made by any indigenous peoples with an association with the River Murray that the authorised officer (or authorised officers more generally) not enter a specified area.

This amendment arises from consultation with indigenous groups. It will reflect the object of the River Murray Bill in terms of respecting indigenous interests in relation to the protection and preservation of such sites.

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

Mr BRINDAL: The minister's amendment says that an authorised officer must have regard to a request made by any indigenous people in association with the river not to enter a specific area. My understanding on reading this is that there is no choice; that is, if an indigenous person with an association with the river says to an authorised officer, 'I request you not to enter this area', then he has no choice but not to do so. I am very happy to be corrected—even by my colleagues who are lawyers—because this clause worries me. It seems to me that, if an indigenous person says, 'You must not enter this particular area for any reason', then you cannot do it. I am not trying to transgress, and I do not think anyone on this side of the committee is trying to transgress their rights, their sensibilities or anything, but if I am reading it correctly—and I hope I am not—it seems to give one group extraordinary power that is not conferred on any other group.

The Hon. J.D. HILL: I know that is not the case. The only 'must' about it in relation to this provision is that they have to give regard to the request. That means that they have to weigh it up, consider it and then make a decision which is appropriate to the circumstances. They can ignore the request. It depends on the circumstances and the severity of the incident that they are investigating, balanced against how strongly the request is put. The kinds of things that might be contemplated would be issues to do with important sites, photographs of important sites or objects, or photographs of individuals or places where there is a burial ground or something. I think that is what it relates to. Obviously it is not specific because it is hard to codify all the circumstances that might be considered. However, in all events, the officer can make up his own mind.

Mr BRINDAL: First, on behalf of the opposition, I am prepared to take the minister's word for that, but I would like the minister to assure us—and I am not doubting his word—that between the houses he will check with his officers. Secondly, this is one of those clauses which I will discuss with my colleagues between the houses to ensure that they are happy with the minister's explanation. Therefore, we will accept the amendment.

Mr WILLIAMS: On the same point, the use of the word 'must' disturbs me. I wonder why the word 'should' was not

used instead. If a matter goes to litigation, I am concerned about the sort of field day it would make for lawyers. I do not want to prevent the minister or his officers having the powers. I do not want them to have any less respect for those people whom this clause purports to aid, but is this the best way to express what they are trying to achieve in this bill?

When we are drafting legislation in this place, in 99.9 per cent of cases it does not really matter how it is worded, except in those very difficult cases where somebody wants to make a damn nuisance of themselves, whether it be an authorised officer or a citizen or, in the worst case scenario, when a party on each side of an argument is bloody-minded and at loggerheads. I want to be assured that this is the best possible way that we can achieve what we want without giving rise to some convoluted legal argument were it to go to litigation at some stage.

The Hon. J.D. HILL: I understand the member's concerns. I refer him to section 2, clause 18 of the bill which, referring to somebody who is entering onto land, for example, provides that a person exercising power given by me by delegation:

> . . . must, in as far as is reasonably practicable under (c), cooperate with any owner or occupier of the land.

There is an equivalent provision in relation to (probably in 99.9 per cent of cases) non-indigenous people. This clause provides that they must have regard to any request. It does not state that you have to obey: it states that you must behave in a particular way before you do what you feel you must do, and you have to weigh those things up.

The point is that non-indigenous people are less likely to have the same codifiable interests and rights as indigenous people. Section 18, for example, talks about landowners and people who occupy land, who tend to be non-indigenous; whereas this clause talks about other issues where there might be an interest but not necessarily a property right, for example.

I am advised that 'must' imposes a duty on the officer both to cooperate and to have regard to any request. So, that is appropriate. You cannot say to the officer, 'You should.' That means that they can make up their mind on the day whether they will cooperate or have regard to the issues. So, 'must' is the correct word.

Mrs REDMOND: I have only one question on this proposed amendment, and that is about the use of the term 'indigenous peoples' in the second line. I take it that the clause refers to always more than one, or if it is one, that person as a representative of a group of indigenous people rather than a singular indigenous person.

The Hon. J.D. HILL: As I understand it, the plural can include the singular.

Mrs REDMOND: In that case, is it intended that any number of indigenous people individually could then claim any number of rights along the length and breadth of the river individually?

The Hon. J.D. HILL: Are you referring to the amendment?

Mrs REDMOND: Yes, in terms of asking an authorised officer not to go to a particular place or to enter onto a particular area. So, any number of people can say, 'That bit is sacred to me.' I have dealt with a circumstance where five different claimant groups claimed interests over one area, and each claimed different interests and a different connection. From your answer, I take it that each individual indigenous person could make that claim to an authorised officer. I have no difficulty with what you have said already—that the authorised officer must have regard to what is said. I want to clarify whether it is indigenous peoples, and whether that phrase in the clause refers to the group or an individual.

The Hon. J.D. HILL: That is correct. It would have to be the individual because it would not make sense if it was just a group, I guess. But that is the same kind of provision in the other section which relates to property owners. The officer must cooperate with each individual property owner, not just a group of property owners. I think that is a consistent measure but, at the end of the day, if the officer is getting the run-around and being just led up a garden path, he or she can make a determination, 'I have had regard to that; now I am just going to do it,' and there is nothing wrong with that.

Mrs REDMOND: I am just puzzled as to why the word 'peoples' was then used instead of 'any indigenous person'?

The Hon. J.D. HILL: It may well be a group of people, as my adviser is suggesting to me, or just an individual. This really takes into account the special needs and interests of indigenous people, which are not easily codified in the normal property rights kind of framework. The needs of property owners, I think, are well covered, and the way in which they should be related to is well covered.

Amendment carried.

Ms CHAPMAN: I listened to the debate upstairs prior to the dinner break and then the more recent questions asked by my colleagues. It seems to me that the amendment which the committee just passed introduces a different standard of obligation to the authorised officer. I know that the minister has answered questions but I will come back to that in a moment. It applies to a different group of persons or a person and it is the direct reverse of obligation. So, it is changed area of responsibility; different person or persons; and, not any specified area. I did hear in the earlier debate that it is the intention of the government, as I understand it, to consider the accommodation of other communities and the interests of other communities in the bill in the same way that it is proposing to treat the indigenous persons or peoples.

I just put this to the minister: having moved from the obligation of what the authorised officer must take into account and then put in the negative before they enter into a specified area of an indigenous peoples, and whether that is by one or more of the representatives (notwithstanding the qualification that they must have an association with the River Murray), it seems that, in relation to a single indigenous person who has an association with the river, they can advise the authorised officer that they do not wish them to enter a specified area and the authorised officer must take that into account; and then he or she may, as you say, still have the power to enter.

If, on the other hand, you are a person of non-indigenous background and you have generations of interest, you have an association with the River Murray, then you are caught by the powers of the authorised officer under clause 14(1)(a), which provides:

> An authorised officer, may as may reasonably be required. . .

It provides that the authorised officer not 'must' but 'may' enter any place. It is a direct reversal of obligation. Am I correct in that assumption?

The Hon. J.D. HILL: In so far as it goes, I suppose that is, perhaps, true, but what the honourable member needs to look at is the clause to which I referred previously. They must cooperate generally with people and, if they want to use force, they have to get a warrant. In the case of non-indigen-

ous people, it is a lesser standard. They only have to have regard for the issue and, if they choose to go ahead, they can still go ahead. I would be struggling to find an issue that non-indigenous people, who had no property rights, might feel so strongly about that they would want an officer to have regard for it. It might be a cemetery, for example, and under the Cemeteries Act I guess that there are rules about entering such places. I suppose it is not impossible for non-indigenous people to have sacred places in some sort of spiritual sense.

Ms Chapman: Ashes over a paddock?

The Hon. J.D. HILL: Perhaps. I am just struggling to find a comparable set of circumstances that would apply to non-indigenous people. This measure is in the bill to take account of the different cultural values and practices of indigenous people, and that is why it has been written particularly in this way. If the member wants to suggest a measure that might give a comparable right to non-indigenous people, I am happy to contemplate that, but I am not sure that it would mean very much because there are no comparable cultural values that would be protected by this measure.

Ms CHAPMAN: In answering the question, the minister has acknowledged that there is a different standard—I think they were his words—as to what would apply to some of the unique aspects relating to indigenous people. There are some aspects relating to indigenous persons that would attract that consideration. What I am saying, equally, is that other persons who have association with the river would also need consideration, and they are clearly being treated in a different light.

My other question relates to the amendment that has just passed and therefore has an effect on this provision under clause 14, which otherwise gives the authorised officer no mandatory obligation, because it has been described as 'may'. Why is it only confined to indigenous peoples that they have the power to have consideration taken on the entering of an area? Is there some reason why clause 14(1)(b), for example, which permits an authorised officer to inspect any place, etc., would not deserve the same protection under this exclusive rule for indigenous persons?

The Hon. J.D. HILL: I am struggling to find anything new in the honourable member's question that I have not already answered. I am struggling to understand what the honourable member's concerns are. It might be because I have been doing this for so many hours now, but I cannot see what is fresh in the honourable member's question.

Ms CHAPMAN: If an authorised officer, when dealing with indigenous people, is to have regard for an issue before entering a specified place, why is it not also applicable to them inspecting any place, entering or inspecting any vehicle, etc.? It is quite a different question, I think. In other words, having identified that you are giving some exclusive provision or standard for indigenous persons, why is no exemption applicable to a whole lot of other things, other than just entering their place of sacred importance, for example?

The Hon. J.D. HILL: I will answer that but, in so doing, I object to the honourable member's verballing when referring to exclusive rights, different rights, and all the rest. That is an unnecessary reflection on what this bill is trying to do. To directly answer the honourable member's question, I read from page 19 of clause 14, which states:

> An authorised officer must, in taking any action under this section, have regard to requests made by any indigenous peoples. . .

That applies to all the matters that the honourable member referred to.

Ms CHAPMAN: The 'must', with respect, is not an obligation in relation to having regard. They are not to enter a specified area. You are saying the 'must' relates to having regard, not to entering a specified area.

The Hon. J.D. HILL: I now understand the point the honourable member is making. I may have misled her before when I said other things and I apologise for that. She is correct: this relates to entering a specified area. It is really applying to the special affinity the indigenous people have with particular areas, for example, burial sites and other places that have a spiritual value. I am not aware of the full range of sites and reasons for which sites may have that special value, but that is what it is about. I had not picked up that point.

Clause as amended passed.

Clause 15.

The CHAIRMAN: The shy, retiring member for Stuart has an amendment on file.

Ms Breuer: Are you retiring, Gunny?

The CHAIRMAN: Order! The chair used that word with a different connotation than the member for Giles is putting on it.

The Hon. G.M. GUNN: It was a sign of endearment, and I do not need to be provoked by the member for Giles. I will stay in this place for as long as I want and there is nothing she or anyone else can do about it. I am sure she will enjoy it. To get back to the business at hand—

The Hon. J.D. Hill interjecting:

The Hon. G.M. GUNN: I had a powerful speech, and it has taken me the whole dinner adjournment to work myself up, and now I feel deflated. I move:

> Page 19, after line 25—insert:
> (3) An authorised officer, or a person assisting an authorised officer, who—
> (a) addresses offensive language to any person; or
> (b) without lawful authority hinders or obstructs or uses or threatens to use force in relation to any other person,
> is guilty of an offence.
> Maximum penalty: $10 000.

I thank the minister for his consideration.

The Hon. J.D. HILL: I do not in principle support the honourable member's amendment, but we have had this argument before. Some of the other measures we picked up because we reached agreement. The member tried to get it put into the Native Vegetation Act. I defeated it here and he succeeded in getting it in in the other place, so I accept reality. However, before I leave this place, hopefully after the member for Stuart leaves this place, I will bring in a general piece of legislation to get rid of all these provisions in all the acts over all the years the member for Stuart has brought them in. That is my ambition. The new clause he has on file I understand is the common law in any event, so it is a redundant provision, but not inappropriate and spells out what is currently the law.

Amendment carried; clause as amended passed.

New clause 15A.

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

> Page 19, after line 25—Insert:
> Protection from self-incrimination
> 15A. A person is not obliged to answer a question or to produce a document or record as required under this division if to do so might tend to incriminate the person or make the person liable to a penalty.

Mr VENNING: I refer to subclause 15(c), which provides:

> . . . he or she knows, or ought to know. . .

I have some difficulty with that. Who is the judge of who ought to know? It is all very well: they may not.

Mr Williams: He ought to have read it.

The CHAIRMAN: Order! The member for MacKillop ought to have read standing orders. He is not allowed to interject.

Mr VENNING: I just find that a little bit open-ended, but I presume that the lawyers amongst us will say that it is justified to be left like that. To me it is open-ended, and someone else is judging whether or not you ought to know.

The Hon. J.D. HILL: The honourable member is correct. This provision is very similar to those in the Native Vegetation Act, when we had that debate some months ago. As the honourable member said, this is something that a court would determine on the basis of evidence given, etc. It is not up to the officer who comes in, saying, 'You ought to know that: you're pinged.' It is really up to a court.

Mrs REDMOND: Will the minister explain why the penalty under subclause (2) for, without the minister's permission, moving a peg or marker, and so on, is considered so much less an offence than using insulting language to an authorised officer?

The Hon. J.D. HILL: This is considered to be a relatively minor matter compared to those other offences. I suppose that explains it.

New clause inserted.

Clause 16.

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

Page 20—

Line 14—Leave out 'changing' and insert:

Altering

Line 15—Leave out subparagraph (ii) and insert:

Altering or managing water levels, including altering or managing the level of any ground water, surface water or water within soils, or altering or managing water-quality factors, including salinity, nutrients, turbidity and algae;

Mr BRINDAL: The opposition is prepared to accept the amendments.

Amendments carried; clause as amended passed.

Clause 17.

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

Page 21—

After line 23—Insert:

(ga) provide for financial, technical or other professional advice or assistance to the owner of land with respect to any relevant matter;

After line 28—Insert:

(2a) The minister must consult with the relevant council before entering into a management agreement that provides for the remission of any council rates under subsection (2)(i).

The first amendment inserts an extra item into the list of things that a management agreement may cover. The amendment was proposed during consultation with indigenous groups. It will ensure that a management agreement could include provisions to assist a landowner to preserve sites of Aboriginal significance. However, it will also be of general application. The new item ensures that management agreements may include provisions for financial, technical or other professional advice or assistance to a landowner with respect to any relevant matter. The provision is based on a similar provision in the Aboriginal Heritage Act regarding management agreements under that act.

The second amendment provides that the minister must consult with the relevant council before entering into a management agreement that provides for remission of any council rates under subclause (2). I think the Local Government Authority requested that we do that, which is appropriate.

Mr BRINDAL: I do not want to ask too many questions on the management agreements. The opposition believes that this provision of the bill is one of the most intelligent and enlightened. Quite frankly, we think that some of the rest could be characterised as window dressing, although I do not mean that in a complete put-down sense. This is a very intelligent heart to the bill. I particularly applaud the fact that it is quite visionary. As I read it (and if I am wrong, the minister should correct me for the benefit of this side of the house), for the first time it gives the minister the power to enter into agreements outside the borders of South Australia. He could, for example, go to a cotton grower in the Darling region (I am fairly sure it says that in here) or a rice grower in the Riverina. Is that correct?

The Hon. J.D. HILL: No.

Mr BRINDAL: The clause provides 'may enter an agreement relating to. . . with the owner of any land in the Murray-Darling Basin'. I thought that the Murray-Darling Basin—

Mrs Redmond interjecting:

Mr BRINDAL: I find that interesting, because the Murray-Darling Basin, in the Australian meaning of the word, is not just that part of the basin which is in South Australia.

The Hon. J.D. Hill: The member has to look at the definition, though.

Mr BRINDAL: I am sorry. It is therefore not quite as grand as I thought it was. I apologise. I am lauding the minister and giving him more credit than he deserves. I take back part of my comments, but it is still a step in the right direction. The only question I would ask, though, is: for what reason (and I know the LGA has asked this question) does the minister feel the need to consult with the relevant council before entering into a management agreement that provides—

Mrs Redmond interjecting:

Mr BRINDAL: The member for Heysen might listen to this point—for a remission of rates? What happens—

Mrs Redmond interjecting:

Mr BRINDAL: I am not telling the member for Heysen off. What happens at present is that where the state government remits a rate, it makes up the remission to the council. At present, with a council rate concession for a pensioner, the City of Unley, for instance, sends them the bill—

The Hon. J.D. Hill: They are not getting a pensioner concession—

Mr BRINDAL: That is what I want to ask. If the remission is borne by the council—

Mr Williams interjecting:

Mr BRINDAL: The member has picked up the point. What I want to find out is whether if the minister remits half the rates, he sends a cheque to the council for the half rates remitted or whether he, by law, tells the council, in respect of this property, that it can collect only half the rates? If that is what the minister is doing, I think that it is quite reasonable that he consults the council. If the minister gets the Treasurer to write the council a cheque, I do not think that it is reasonable that the minister consults with them, because it is his decision.

The Hon. J.D. HILL: It is the latter situation, that is, the council would be doing the remitting, so I think it is only appropriate that we talk to them first.

Mrs REDMOND: That is exactly the point I was going to ask about: is it that the minister's obligation under the

proposal is just to consult with councils? So, the minister has no obligation to actually give them any return; the minister can simply consult with the council and say, 'I've decided to do this and that is that.'

The Hon. J.D. HILL: That is correct, but I cannot imagine that any minister would use his power in such a way as to create real fury with the councils. I understand that the councils are relatively happy with that provision. Provided this amendment is inserted, they are comfortable with it.

Mrs REDMOND: I have one other question in relation to subclauses (4) and (5) relating to the registration of the management agreement. I do not understand why it is in two parts instead of simply saying that once there is a management agreement, it must be registered. Why say that it must, on application of either party, be registered if it is not going to be recognised in any event unless it has been registered? Why not simply provide that if there is to be a management agreement, it must be lodged for registration and registered?

The Hon. J.D. HILL: This is really to support the Torrens title system. There may be some agreements which are not, in fact, ever registered. It is unlikely, but it is still theoretically possible.

Mrs REDMOND: Subclause (5) has no force or effect unless it is registered. What is the point of a management agreement if it has no force or effect?

The Hon. J.D. HILL: That is a good question. The answer is probably none. I will speculate on this without advice and get correction if I am wrong. There may be a possibility of an agreement being signed and there is a period of time between its being signed and its being registered while various arrangements are brought to bear. The point of subclause (4) is to require the Registrar-General to register it, that is, to ensure he does it. Subclause (5) is to provide that it will not have effect until it is registered. The two elements brought together mean that there is a duty on the Registrar-General, and I suppose there is then a duty on those who want to enter into the arrangement to go about having it registered. There are two different jobs and, therefore, two different clauses. I am not sure that I understand it 100 per cent.

Ms CHAPMAN: I do not have a problem with the registration procedure. I think it is important given that other interests do need to be registered for the purposes of ultimate enforceability. Is it intended that, if consultation has not occurred with the council, in so far as it relates to a remission of any council rates, that clause in the management agreement would not be enforceable in those circumstances? If that is the intention, in those circumstances ought it not be provided for in this section?

The Hon. J.D. HILL: That is an interesting question. We are not entirely sure whether or not that is so. I will do more work on it between here and the other house to get a response. My advice is that once it is registered it is registered.

Ms CHAPMAN: I note the intention of the minister in relation to that. May I request that it be specified in clause 17 to have that effect? It may be that it would be incorporated in subclause (2)(a) to ensure that the registration procedure then does not make something enforceable that clearly was not intended to be.

Mr BRINDAL: I have been corrected by my colleagues behind me: they have shattered my dreams and ruined my vision for this bill. I heard the member for Heysen talk about extra territorial power. Would the minister at least look at that between houses? It would be very intelligent to give a minister under this bill some power. I know this law cannot apply outside South Australia, but this law can give to a minister in South Australia the power to enter into contracts. As I understand it, there is no reason why the minister could not enter into simple contracts in other jurisdictions. The minister will bring to this house shortly an Integrated Natural Resource Management Bill, and the key to managing the waters of the river, as the minister and I know, is management of land not only in South Australia but all over the basin. I understand what my colleagues are saying, but surely, in this bill, it is possible to give the minister the power to enter into an agreement with someone somewhere. We must enter into contracts with interstate companies. If this power was in the bill, I do not think it would detract from the bill.

The Hon. J.D. HILL: We will certainly look at the issue. I gather I have the power to do what the honourable member described. The difference is that we could not force the registration in another state.

Mr BRINDAL: We would still have contracts.

The Hon. J.D. HILL: We could certainly enter into contracts, but we can do that, anyway. I will look at that suggestion.

Amendment carried.

Mr WILLIAMS: I move:

Page 21, line 31—Leave out 'a party' and insert:
the parties

Notwithstanding the fact that the minister has indicated he is happy with that, I want to make sure. The minister said he wants to protect the Torrens title system. The Torrens title system is there to protect and give surety to titleholders, and I was concerned that this clause would allow the minister or force the Registrar General to take certain action without necessarily taking into consideration the wishes of the titleholder. I wanted to make sure that was clarified, and I thank the minister for agreeing to the change.

Amendment carried; clause as amended passed.

Clauses 18 to 20 passed.

Clause 21.

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

Page 25—
Line 6—After 'consultation' insert:
, comment
Line 7—After 'consideration' insert:
or assessment
Line 11—
After 'approval' insert:
(or refusal)
After 'consultation' insert:
, comment
After 'consideration' insert:
or assessment
Page 26—Line 9—After 'endorse' insert:
or otherwise agree with

Amendments carried.

The Hon. M.R. BUCKBY: I move:

Page 25, after line 17—Insert:
(2a) A regulation under subsection (2) cannot apply with respect to a plan amendment report under the Development Act 1993.

I move this amendment after raising the issue of PARs and the fact that under this act the Minister for the River Murray would have veto over a PAR and that the responsibility for PARs would be shared between the minister responsible for the Development Act and the Minister for the River Murray. In my second reading speech I indicated to the minister that this was a concern and related a letter from the Local Government Association to the minister, the date of which letter he sought from me, and he assured me that the matters that had been raised by the Local Government Association

had been addressed. I do not know whether he has seen a subsequent letter. The letter that I quoted in my second reading speech was dated 19 February, but there was a subsequent letter on 27 March which I do not know whether or not the minister has seen.

The Local Government Association says that its concerns have still not been addressed with regard to the plan amendment reports, and it believes that the plan amendment report process is the fundamental role of the minister responsible for the Development Act and should not be compromised, as it would undermine the integrity of the current planning system. I agree with that, because there are a number of matters here. In 1993 the then minister, Hon. Greg Crafter, brought in amendments to the Development Act for the very purpose of bringing these sorts of PARs under one minister so that it was not a dog's breakfast of having to go to two or three different ministers to get an approval for a PAR, but local government knew it could go to one minister who would sign off those PARs. It meant, as the member for MacKillop says, that it was a one-stop shop. In terms of time of approval of PARs, the need for sign-off by a number of ministers disappeared and it was under one minister, and therefore the process was speeded up.

I see this particular area of the act as delaying the approval of PARs because this will have to go to the Minister for the River Murray and also to the Minister for Planning—or the minister who is responsible for the Development Act. The Local Government Association, in discussions with me, has been very strong on the point that the planning amendment reports are developed by councils and should remain under the control of councils, while they accept that obviously it has to be signed off by a minister.

The minister would note that an amendment subsequent to this amendment in the schedule states that the Minister for the River Murray must be consulted on a PAR by the minister who has control of the Development Act, so that the Minister for the River Murray is not left out and can raise any concerns with the minister who controls the Development Act.

The other reason I think this is particularly important is that when we look at the map of the River Murray protection area, the River Murray and its tributaries cover a very expansive area of our state, and I imagine a large number of PARs would come out of this because it covers a number of district councils and a large number of townships within those district councils, and I believe that having to get sign-off of the Minister for the River Murray will only delay those PARs.

As well, the minister has a power of veto within this particular area. If the minister who administers the Development Act and the Minister for the River Murray have a disagreement—for instance, if the Minister for the River Murray says, 'I do not agree with this PAR,' whereas the minister controlling the Development Act says, 'I do not have a problem with it'—it then has to go to cabinet and is sorted out in cabinet between the ministers or within the cabinet. Under the current cabinet rules—when I was in cabinet and I assume that it still operates the same—all PARs come before all ministers in cabinet and all PARs go out for comment by the various agencies, so the minister does not need this control to ensure that the issues that might be particularly important to the River Murray and under his control are raised within the various agencies, and he can raise issues in cabinet that he is not happy about without splitting this particular Development Act between two ministers.

So, I believe very strongly in this particular amendment because, as I said, I see that this bill is only going to delay procedures. The subsequent amendment to the schedule says that the minister in control of the Development Act must consult the Minister for the River Murray in relation to a PAR. By taking this from the minister's control, it still means that a development—and let us say that I was going to build a foundry on the banks of the River Murray—

Mrs Redmond: Or at Mannum.

The Hon. M.R. BUCKBY: Yes, it appears from the map that Mannum is not in the protection zone—I sincerely hope it is, and perhaps the minister could answer that for us at some stage. That applies to Murray Bridge also. But it means that over any development the minister would still have the power of veto but responsibility for the PARs would remain with the minister controlling the Development Act.

The Hon. J.D. HILL: This is a complex and critical area of the legislation, so it is important that we spend some time on it. I will address a number of issues, the first of which is the view of the Local Government Association members. I have had a conversation with them today—

An honourable member interjecting:

The Hon. J.D. HILL: Yes, it was a conversation.

An honourable member interjecting:

The Hon. J.D. HILL: I can't remember now; it was some time this afternoon. I thought they were happy with the process we were going through. I note that the honourable member has had some correspondence. Since I spoke to him, I have seen other correspondence, as well. I am not quite sure where they are coming from. I am finding it hard to get a clear understanding of their view. However, I am still happy to talk to them. My feeling is that we have satisfied their concerns, and I would like to talk to them again. Anyway, putting that to one side, the principle that is embodied in this bill is that there will be a Minister for the River Murray; there will be some River Murray powers so that we can stop bad things happening. Central to that must be planning measures. It would be just appalling—and I am not suggesting that it would ever happen—if a PAR was introduced which was, in its very essence, contrary to the best interests of the River Murray, and then the Minister for the River Murray had to go around and knock on the head every single development that happened in relation to that PAR. It would be much more sensible for the River Murray minister to have a key role at the beginning of the process, and that is what this is about.

This measure is about getting good outcomes. Putting aside how cabinet processes work, it would be a poor result if a PAR was implemented which was negative in its character in relation to the River Murray and would allow activities to occur there that were contrary to the best interests of the River Murray. A planning minister could introduce a PAR, and then a River Murray minister would have to go and knock on the head every single development and really contradict the PAR. It is much better to resolve that tension first. That is what this bill does. It does not give the River Murray minister a veto. If there is a disagreement between the River Murray minister and the planning minister, then the matter has to go to cabinet for resolution. That means you get an integrated result. So the PAR is something that both the planning minister, the River Murray minister and the rest of cabinet can agree to.

It is much more likely then, further down the track, to get developments which are consistent with the River Murray

plan as well the Planning Act, so you will not have the River Murray minister going in and having to knock on the head particular developments. I would have thought that, from a planning point of view, that is a much better outcome than the one you are suggesting. So I am not supportive of the honourable member's amendments. In fact, this amendment is not really the one we are talking about; we are really talking about his amendment to the schedule. His real amendment is about a regulation under subclause (2), and so on.

An honourable member interjecting:

The Hon. J.D. HILL: It is unique to the schedule but it is separate.

An honourable member interjecting:

The Hon. J.D. HILL: It is important to address the issue just once. I thought that, since you have done that, I would do the same. In one sense we have no real problem with your amendment. Although, my advice is that it does not really mean very much. I am not even sure we understand exactly what it means. I do not think there is any harm in supporting it, but we cannot see any benefit in supporting it either, so I have said no. Between now and another place I am happy to have a closer look at it and seek advice again from the LGA to try to get a clearer understanding of what it can live with and come back to this. I reject in general terms your proposition that the final stage should rest with the Minister for Planning. My colleague the current Minister for Planning agrees with me in relation to this—I think based on sound principles.

Mrs MAYWALD: I have just had discussions with the planning minister in respect of the first part of the shadow minister for planning's amendment. He advises me that that is not the key area of concern in relation to the planning amendment reports, that that is dealt with at length in another section of the act. The member for Light's amendment will make it quite clear that we are talking about statutory authorisations in regard to an application versus a PAR process. The first part of his amendment is quite acceptable to him; however, the second part (which is dealt with in another section of the act) he has some difficulties with, and he has negotiated that with the minister. As I understand it, the first section refers more to applications than it does to PARs, and that amendment will make it patently clear that PARs are not the subject of this part of the act.

The Hon. J.D. HILL: If it is of such importance to the opposition, I will support it in this house. I will have another look at it because I am unclear about exactly what it means. I do not think it is harmful; I just do not think it means anything. Perhaps we should talk to the member for Light and understand exactly what he is trying to do and codify that, but I will accept it in the interests of getting on with the debate and we will have another look at it in the other house.

Amendment carried.

Mrs REDMOND: I think the minister in his earlier comments in relation to the matter raised by the member for Light confirmed what I understand to be the case, but I would like to get it on the record. My understanding of the regime that this provision sets up—I agree that this clause is probably the crux of the whole matter—is that we are dealing with a statutory instrument, which is the plan or the regime or the PAR—or something at that higher level. This requires the minister to be consulted in the initial stages and to have input at that stage, but he has no absolute authority at that stage. If the two ministers cannot agree, then it goes to cabinet—the act of course refers to the governor. If it is a consent or a licence or an authorisation of some kind being put under one of the related acts—say, if someone wants a building or planning consent under one of those other related acts—that individual item has to be referred to the minister and the minister ultimately has the power of veto over that application.

The Hon. J.D. HILL: I think the member has summarised the powers appropriately. At that higher level it has to be agreed to by government. If there is agreement, that is delegated to whichever minister it is. In relation to this shared power, a similar provision operates in relation to the Mining Act and the Development Act and also in relation to catchment areas under the Water Resources Act. This is not a novel provision. It is in both those acts for pretty sensible reasons to do with planning. However, the member is right: at a lower level on an individual basis I would have the right of veto. As I think I have explained to the house before, the way it would be operated is that the applicant would go to the council in the first instance, the council would refer it to me, I would refer it to the subsidiary bodies, they would come back, I would make an assessment. That seems to me to be a pretty sensible way of proceeding.

Mrs MAYWALD: I seek some clarification. We currently have a series of acts that oversee development in the River Murray area and other areas across the state. With particular reference to the River Murray, we also have the catchment plan and the water allocation plan (WAP) under the Water Resources Act. I seek the minister's confirmation about what this act now means. If a developer seeks to establish an irrigation development in a prescribed area under this act, there is already in place a process where, if it is a new development on a dryland farming area, the developer will need to apply for a land use change. If they are bringing water onto the land, they will have to obtain approvals through the water allocation plan process. They will also have to go through the local council for development approval in respect of the use of the land. This process requires a whole range of conditions that they must meet.

The Water Resources Act has been developed to ensure that there is an exhaustive consultation process in relation to that matter. This involves irrigation and drainage management plans, compliance with land and water management plans, compliance with the WAP and the catchment plan. It appears that this act has the capacity to override all that. I am concerned that a developer may go through that entire process and, at the end of the day, for purely political reasons—and I will cite the very controversial potato development at Swan Reach that has had the pipes go out into the river: in hindsight, most people would say that that was probably the best way to get the water out of the river, and it had the least impact on the river, but there was a highly visual and a highly political perspective to that issue—

The Hon. J.D. Hill: There was a lot of community concern, I think.

Mrs MAYWALD: The community was concerned. But, at the end of the day, it is far more desirable for a development to go ahead taking into consideration all those other aspects—the catchment, the water allocation plan, their IDMPs, and ensuring that they minimise the impact on the cliff face—rather than what we have seen occur in other areas, where developers have just bulldozed the cliff face and put something down the bottom. Because that was close to Adelaide, and because a reporter got hold of the issue and it looked good on television, we saw an overreaction to a situation in that instance. I am concerned that all these other

processes that we have in place can now be overridden by a political factor and public opinion, and I would like the minister's assurance that, under this act, that will not occur.

The Hon. J.D. HILL: How can one bind future ministers in relation to how they might follow anything through? Any act can be administered in a highly political way, as the member would know. But that is certainly not my intention. I guess one safeguard in relation to that is the fact that any future minister will have to bring back to the committee we are establishing an annual report which details the way in which we have dealt with these measures. The process that we will go through in coordinating all these activities, of course, means that it would not happen in the way in which the member described in terms of a developer going through a whole lot of processes and then being told no. The idea is that it comes to me first, so that we can assess those problems before they get that far. It goes to council, and then to me; we set it out for assessment, and I will undertake the assessment. So, all those things will be taken into account at the same time.

Mrs REDMOND: Will the minister advise what enforcement provisions there are in relation to subclause (9), which is the provision whereby you may, by notice in writing to another authority, or any other person, request that specified information be provided? In earlier clauses his authorised officers are able to ask people for information, and all sorts of penalties are provided. I cannot see any penalty or any other mechanism to enforce that request for information.

The Hon. J.D. HILL: There are three scenarios. The member for Heysen has picked up a good point. The first is another authority. That would be a government authority—

Mrs Redmond interjecting:

The Hon. J.D. HILL: If it is a government authority, that is fine. If it is the other person, the second party, and they did not comply, it would not go anywhere. If it is a third party, including local council, and they refuse to comply, I would have to get an injunction of some sort to have them comply.

Mrs REDMOND: I do have some concerns about the provisions of subclauses (14) and (15), inasmuch as it deals specifically with subclause (11)(c); that is, a policy published by the minister under subclause (10), which may specify cases or circumstances where the minister may oppose the granting of specified classes of statutory authorisations. I assume, for instance, that the minister might specify that we will not have cotton farms along the Murray or some such thing. However, I do have a concern about having any provision in legislation which prohibits an appeal. It seems to me that our system generally will always allow for someone who is adversely affected by an administrative decision to bring an appeal.

The Hon. J.D. HILL: Removal of appeal rights, as I understand it, would be by regulation. That is clause 21(15) to which the member has referred. There is a precedent for the removal of appeal rights by regulation. I refer to section 35(4) of the Development Act relating to a document, that is, a development plan and directly removing appeal rights in that case for non-complying development; and section 37(5) of the Development Act for regulations removing appeal rights.

Clause as amended passed.

Clause 22.

Mr WILLIAMS: I addressed this matter in my second reading contribution. As the member for Unley has said, some parts of this bill are very good and some parts of it seem to be no more than window-dressing. This clause is one of the parts of the bill which I think comes somewhere in between that. We would all like to see that there be a general duty of care, but I am not too sure that it is anything more than window-dressing. I am deeply disturbed that we could impose a general duty of care on the community at large, yet not impose the same duty of care on a public authority exercising, performing, or discharging a power, function, or duty under this or another act. I cannot for the life of me understand why we would want to have that exemption under this part of the bill.

The point I made in my second reading contribution is that all the things that have gone wrong with the River Murray, and other environmental disasters in other parts of the state, are generally as a result of actions which have been sponsored by governments over the years. One of the big problems in the River Murray, which has not been created only in South Australia, is the amount of water that is extracted and diverted from the river and used for irrigation purposes.

Ms Chapman: And the Snowy River Scheme.

Mr WILLIAMS: And the Snowy River Scheme, as the member for Bragg points out. These things have all been sponsored by governments. It beggars my imagination why we want to give an exemption to a public authority when public authorities, by and large, have been the guilty partners in the past. My amendment—to delete clause 22(3)(a)—removes that exemption for public authorities but leaves in paragraph (b). That allows the minister of the day, if there is some reason why the minister thinks that an exemption should be given under the general duty of care, to make a regulation. Obviously, that is a disallowable instrument, and it gives the parliament the power to assess that at that time.

In discussing this with various people, it has been pointed out that this provision may be included to allow emergency services to carry out some duty in the case of an emergency—flooding, for example. If the minister and his advisers can imagine any such situation arising, I suggest that they indeed use paragraph (b) and draft the relevant regulations to allow those sort of emergency situations to be catered for at the time. It is absolutely unnecessary—and, indeed, poor legislation not working in the interests of the river, as this bill purports to do—to leave in paragraph (a).

The Hon. J.D. HILL: I will accept the amendment, but let me give the member for MacKillop the reasons why the clause is there. There are three reasons—and he might want to contemplate these before he actually goes down this track. First—and I think he has already given this example himself—it is not reasonable to expect an agency which is obliged by some other act to undertake certain activities or acts to be bound by this specific duty, and emergency services are a case in point. Secondly, crown agencies are subject to ministerial direction regarding the manner in which they undertake their functions and can be directed to do them in a way that does not harm the river, so far as possible. Thirdly, the minister is responsible for enforcement. The Crown cannot bring enforcement proceedings against itself.

But having said all that, I am not opposed to the member's amendment. I suppose it sends a stronger message to the community that we expect ourselves to behave in the same way as the rest of the community, though I believe that we would do that in any event. I have a consequential amendment to clause 22 which I will not now move. As I understand it, that becomes redundant if the member for MacKillop's amendment is passed.

Ms CHAPMAN: I appreciate what the minister has said, and it gives me great relief, because I also addressed this

matter in my second reading speech. Given the comment that the minister made about not being able to prosecute himself, does the minister agree that the Crown could be dealt with in a manner that is for a protection order, for example, or a reparation order?

The Hon. J.D. HILL: This is a bit moot, I would have to say to the member for Bragg. It might depend on the legal entity which is the Crown; a public authority of some sort might be treated differently from, say, one of the sections of my department. We can take further advice but, as the member says, it is not normal for an enforcement provision against oneself. It could be for corporatised bodies, I suppose, which would be a good example. I think that is probably the answer. If the government body is corporatised, yes; if it is an agency of the Crown it is probably a bit moot, but we can take further advice.

Mr BRINDAL: I missed part of the minister's comment. I thought that the Crown was always considered a single entity even in its parts, but the Crown—

The Hon. J.D. Hill interjecting:

Mr BRINDAL: Yes, but, nevertheless, while the concept of prosecuting itself is difficult, it is also bound by the concept of the Crown as a model citizen. So, the Crown is automatically bound to observe its statutes in all their forms. I would therefore presume that, if the minister found part of the Crown, or a Crown instrumentality and entity, acting in a way that violated the principle of the Crown as a model citizen, he would take it up with his cabinet colleagues or, nevertheless, without prosecuting himself, point out that it is not kosher for the Crown to act in any way other than in concert with this law. Therefore, is it correct that an internal process would come into effect which would drag the Crown back into line if the Crown was erring?

The Hon. J.D. HILL: I think the honourable member has described it well. I think that is in fact what would happen. The Crown, obviously, would want to act in accordance with the general rules, but there would be circumstances—emergency services, and so on—where we would need special provisions. In principle, I think that what the honourable member is saying is correct.

Mr WILLIAMS: I thank the minister for indicating that he will support this amendment. To help speed things along, at the same time I will move my second amendment to this clause, which becomes redundant. It is merely the definition of public authority, and I move:

Page 31, lines 3 to 9—Leave out subclause (5)

Amendment carried.

The ACTING CHAIRMAN (Mr Snelling): I take it that the minister has withdrawn his amendment to clause 22.

Mrs REDMOND: I have one quick question about the drafting, and it relates to subclause (2)(c), which provides:

. . . in determining what measures are required to be taken, regard must be had, amongst other things. . .

The note I made is, 'What other things?' I take it that that is just a new parliamentary way of expressing what we used to put as a catch-all at the end of those placita (1) to (6). There would normally be such other things as, 'the minister may deem'.

The Hon. J.D. HILL: Apparently it is a provision that exists under the Environment Protection Act. It has been there since 1993; so, I do not know whether it is a new way of doing it. I understand that we do not want a catch-all, but this is a better way of expressing what we mean.

Mr BRINDAL: I want the minister to explain. Under the general duties of care, a person must take all reasonable measures etc., and the Crown is bound by its own acts. The Crown is bound by that general duty of care. However, a person is not to be taken to be in breach of subclause (1) if that person is a public authority exercising, performing or discharging a power, function or duty under this or any other act.

Mrs Redmond: We just deleted that.

Mr BRINDAL: I am sorry; I thought that we were back on clause 21.

Mrs Redmond: The minister has accepted that.

Mr BRINDAL: That was in clause 21. We are now on clause 22; I do apologise. That means that the question is irrelevant.

Clause as amended passed.

Clause 23.

Mr WILLIAMS: I move:

Page 33, after line 20—

(4a) If an emergency protection order is issued orally, the authorised officer who issued it must confirm it in writing at the earliest opportunity by written notice given to the person to whom it applies.

I raised this matter in the second reading debate and I am delighted that the minister has indicated that he will accept it. I was disturbed that an authorised officer might issue orally an emergency protection order and that that order might not be backed up by a written authority for some 72 hours. As I said in the second reading debate, I thought that was both unfair to not only the citizen, as I am sure the member for Stuart would support, but also the authorised officer, putting him in an invidious position. Because the minister has accepted this amendment to the bill, I might comb through a couple of other acts and bring some private member's bills to the parliament to institute this principle in them, as well.

Mr BRINDAL: Is there a difference in law between 'orally' and 'verbally' or is it the same thing?

The Hon. J.D. HILL: The best way to understand the difference between 'orally' and 'verbally' is to think of the opposite. The opposite of verbal is non-verbal and the opposite of oral is written, so 'oral' means non-written and 'verbal' means in words.

Mrs REDMOND: I want to clarify the penalties provided for in subclause (8) and confirm whether my reading is correct. Basically, if there is already a provision in another act for a penalty, then that is the penalty that applies. If there is a domestic situation, $2 500 is the penalty, and the maximum fee in any other case is $120 000. In the circumstances of the domestic activity or in the other case, an expiable fee can be paid of either $250 for a domestic offence or $500 for any of the other offences. So, someone can be threatened with a $120 000 maximum penalty, but they can avoid that by paying an expiation fee of $500. Is that correct?

The Hon. J.D. HILL: No, that is a long bow, and the member for Heysen would understand that if an expiation notice were issued it would be for a relatively trivial or minor offence in a non-corporate case. It would be up to the individual officer as to whether or not they issued an expiation notice. If a person or a corporation was caught doing something quite gross in terms of breaching the order, that would not be the process that was followed. It would go to court and, if it was a significant breach, we would want that higher penalty to allow a court to do the appropriate public duty.

Mr GOLDSWORTHY: I have a point of clarification. This clause deals with protection orders, but nowhere in the bill so far has a protection zone been mentioned. I do not see where in the bill, until we get into the schedules, it talks specifically about the protection zone. I have specific questions about that. I am happy to wait until we get further through the bill, but that is a point of clarification. This clause does not relate to the zone.

The Hon. J.D. HILL: No zones are mentioned in the bill. Clause 4 refers to a regulatory power to create protection areas and this has nothing to do with the particular provision.

Mr GOLDSWORTHY: Last Thursday, when the member for Heysen raised the issue of the protection area or zone, I think the minister said that that was not the time to deal with it, and that it was specifically about the regulations. I am happy to wait until we get further through the bill.

The Hon. J.D. HILL: The protection area is a smaller area than the basin, which is the large bit to which the act applies. The creation of the protection area triggers certain processes to be followed and certain things have to be referred to me as minister. The orders can apply to the whole basin covered by this act. The set of orders do not relate to zones. The zone is really about the development process.

Mr GOLDSWORTHY: That is specifically what I am referring to: the actual zone, the map we got that runs down the eastern side of the Mount Lofty Ranges and up—

The Hon. J.D. HILL: What the honourable member is talking about is not covered by clause 23.

Mr BRINDAL: Notwithstanding that, I understand that when the minister declares zones under other acts there may be a regime in place in connection with that zone. To enforce that regime he may need to issue specific protection orders related to the zone. I understand what the minister is saying about this not being part of it, but if a zone of the river is declared under an agricultural provision you will declare that zone under the agricultural act. Because the zone is declared, you may then need to make specific orders related to the zone, but you will do it under this provision of the act? That is the way I thought it would operate.

The Hon. J.D. HILL: What the honourable member is suggesting technically may be capable of being done, but that is not what this is about. True, there is a range of River Murray protection areas that we could create for different purposes. We create them not to impose an order on them but to trigger a particular process when a development occurs within those zones. The order would not create zones but could be put in place to stop a particular activity across the whole of the area, in order to create certain duties across the whole of the basin or to enforce the general duty anywhere it has been breached. If somebody was throwing rubbish off a boat, an order could be placed upon that person to stop them doing that. If somebody was pumping untreated sewage into the river, an order could be placed upon them to stop doing that. It really relates to a particular act. It is not a planning measure: an enforcement measure is perhaps the best way of putting it.

Mr BRINDAL: I absolutely understand what the minister is saying, but what I am asking is this: let us say that the Chowilla wetlands was declared as an environmental zone for the river. The minister may then say that in that Chowilla wetlands a certain regime is to apply. I suppose that there would be various ways of opposing the regime that would apply to the wetlands, but what he might do, I suggest, is issue an order that says, 'If you own property within this zone you may not undertake the following activities, because the following activities will affect the Chowilla wetlands.' It is actually then using the order power to apply specific provisions because it is a zone. I am trying to ask whether you could do or will do.

The Hon. J.D. HILL: Yes, but not exactly as the honourable member has suggested. We could take an area like Chowilla and, by regulation, impose some special responsibility and then, if an individual were to breach that responsibility, we could use the order to make them comply. But the order cannot operate in a general sense.

Mr Brindal interjecting:

The Hon. J.D. HILL: No. It is to get compliance with a particular breach. That is the way it is set up. You breach something, we slap an order on you and you then have to comply with the order. If you do not, then you go through a legal process. That is how we get compliance.

Mrs MAYWALD: The point regarding Chowilla brought to mind an issue of concern, which is that, under the current arrangements under the pastoral lease on the Chowilla property, they are required to participate in a 10-year review on the game reserve section of the property and they also have the floodplain section of the property. They currently graze the entire property, but they do it in different ways on the game reserve and on the floodplain.

Is it possible under this legislation that the whole arrangement under that current lease may be impacted upon and that you could rule that grazing the floodplain would be in breach of the objectives of this act and, therefore, overnight decide that grazing on the floodplain, which is an integral part of the business activity of that property, could be in breach of the ORMs and thereby in breach of the act and, as a result, the undertaking of this particular family that has been there since the mid-1880s would be no longer viable?

The Hon. J.D. HILL: Theoretically it would be possible to do a whole lot of things in relation to activity in the basin, but there would need to be a reason for wanting to do it. That would be that the system had broken down, it was not working and there were problems associated with it. As I understand it, relations between the government and that organisation are very good and things are managed quite well now. I do not want to create a sense of anxiety that we are about to go in and take things over; that is not what we are planning to do. I do not know whether I have those powers under existing legislation. I may have, I am not sure, but it is not proposed to do that. But there is a whole range of things that you could do. That is what this power does: it gives the minister quite strong powers.

Mrs MAYWALD: Further to that, I seek an assurance from the minister that any changes to existing land uses covered under existing acts would be subject to significant consultation, particularly with those who have key interests in those lands and whose livelihood may be jeopardised by any provisions that may be introduced under this bill. I seek some sort of assurance from the minister that there was no intention to disregard those interests in that particular property.

The Hon. J.D. HILL: I give the member an absolute commitment that there would be full and complete consultation over anything along those lines. This is not the intention; this is more directed, I suppose, to people or organisations who are bad citizens—

An honourable member interjecting:

The Hon. J.D. HILL: —the whole bill really, rather than this particular provision—or to new developments that may have a negative impact, which we can take into account at the

very beginning. There are pre-existing operations, of course, and we would obviously want to work with those operations as long as they were heading in the general direction. If they were just bad citizens and did not care, I guess we would want to come in a bit harder, and that is what this bill will allow.

Amendment carried; clause as amended passed.

Clause 24.

Mrs REDMOND: My question relates to the very last line of this clause, which provides:

> If an amount is recoverable from a person by the minister under this section—
>
> . . . (b) the amount together with any interest charge so payable is until paid a charge in favour of the minister on any land owned by the person in relation to which the protection order is registered under Division 2.

When I first read it, I wondered whether it meant any land owned by the person or 'the land in relation to which the protection order is registered'. I then thought that the use of the pronoun 'which' indicates that it is the land. But, in any event, charges are always against land, not against people, and I wonder why we do not just delete the words 'owned by the person,' because it will always be a charge against the land against which the protection order has been issued.

The Hon. J.D. HILL: That is an interesting point. I think that the member is correct about the meaning: it does not refer to any piece of land owned by a person; it is a piece of land which is subject to the protection order. The advice I have is that this is the best way of drafting this provision. I guess we could argue with it, but I do not think anything is lost by including those words—and it is what has been recommended to me. I do not think it is ambiguous, if you read it carefully. I am sure a court would read it correctly if it ever came to that.

Mrs REDMOND: While I accept it that might not be ambiguous if you read it carefully, my suggestion is that we delete four words and make it less ambiguous and less able to be misread; if we simply say that it is a 'charge in favour of the minister on any land in relation to which a protection order is issued'.

The Hon. J.D. HILL: I will undertake for the member to have a look at this one before it gets to the other place and if we can accommodate her concerns we will do so.

Mr BRINDAL: I have only one point on this whole general section. This is reasonably unusual by modern parliamentary practice, but the opposition is of the view that, in relation to any moneys collected from non-compliance for this act, the government should give consideration to putting that into a dedicated fund, to go back into the preservation of the river. The act is quite specific. It has a duty of care for the river, for the protection of the river. Minister, I know that probably in terms of what is collected it is symbolic and that the government will always put in more money than it will collect, but, between the houses, I just ask the minister to consider the use of a dedicated fund for fines collected from this, because I think it sends a small but very significant message to the community that we are serious about looking after the river.

The Hon. J.D. HILL: I will certainly undertake to do that. There is a good reason for it, of course. If we set up a lot of dedicated funds which have specific purposes, they sound great at the time but 10, 20, 30 or 40 years down the track the purpose may have disappeared—it is hard to imagine that in the case of the River Murray—and we have a sum of money we cannot access. We are tying our hands, but we will look at it.

Clause passed.

Clause 25.

Mrs REDMOND: Subclause (6) provides:

> The minister or an authorised officer may, if of the opinion it is reasonably necessary to do so in the circumstances, include in an emergency or other reparation order a requirement for an act or omission. . .

I assume that it should be lower case act and not an act of parliament.

The Hon. J.D. HILL: I accept that.

Mr WILLIAMS: Subclause (4) provides:

> An emergency reparation order may be issued orally. . .

I do not have an amendment, but I make the same point I made earlier in relation to the amendment the minister accepted. Will the minister look at that between the houses and do the same thing?

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

Clause passed.

Clauses 26 to 28 passed.

Clause 29.

Mr WILLIAMS: I move:

> Page 39, after line 4—Insert:
>
> (4) Subsection (3) does not apply if the requirement imposed under this division is that a person discontinue an activity that had been lawfully undertaken by the person before the commencement of this act.

Subclause (3) provides:

> A person cannot claim compensation from—
>
> (a) the minister or the crown; or
>
> (b) an authorised officer; or
>
> (c) a person acting under the authority of the minister or an authorised officer,
>
> in respect of a requirement imposed by or under this division, or on account of any act or omission undertaken or made in the exercise of a power under this division.

When one reads the whole division, particularly clause 23, protection orders, subclause (2)(d)(i) provides that the minister may require a person to discontinue doing something. When I read the bill and looked at those two provisions together, I thought it smacked of retrospectivity. I am sure the minister did not intend that, but I want to make absolutely certain. I have drafted the amendment to include subclause (4) which provides:

> Subsection (3) does not apply if the requirement imposed under this division is that a person discontinue an activity that had been lawfully undertaken by the person before the commencement of this act.

It is basically saying that, if the minister wishes to curtail or stop someone from doing something which they have been doing legally to this point in time, it is only fair and reasonable they be able to claim compensation for being caused to discontinue that activity. I do not know exactly what sort of activity this covers. In fact, this clause preventing people from claiming compensation for any activity seems quite curious to me; I am not sure why it is in there. I certainly do not think that a person should be able to claim compensation for doing something subsequent to this act if they do not have the appropriate approvals, permits or whatever but, certainly, if somebody was doing something legally prior to the commencement of this act, it is only fair and reasonable that they be able to apply to a court for due and fair compensation.

The Hon. J.D. HILL: I am afraid the member for MacKillop and I must part on this amendment; I cannot support this one. I understand the general principle that the

member is putting, but let me give some examples, particularly in relation to environment protection under the EP Act. When that act came into force no doubt some industries were putting pollution into various rivers or streams or emitting material from smoke stacks that they were perfectly legally able to do at the time the legislation came into play. But, when that legislation came into play, standards were created about how much air pollution you could put out, what chemicals you could put into rivers and so on, and licences were issued in relation to that. Over time standards have got harsher. People have not been compensated because their right to put emissions into the atmosphere has been reduced; it would be contrary to good sense and good public policy to do that.

There is no way that the state could change environmental standards if we had to compensate every polluter every time we improved standards. When we improve the standards for motor vehicles over time, we do not compensate car owners or car manufacturers for the fact that we are imposing a greater standard upon them; it is just a fact of life. It is similar in relation to other areas of public activity. We impose new rules on drivers and parents; in a whole range of areas the law changes and the standard is improved but we do not compensate people for what they have lost. That is because there is a general community betterment out of that improved standard, and all of us as citizens have to comply. That is what this provision is really about. There may well be occasions when standards of protection will increase and where some individual interest will have to be diminished, but the point is that those interests would be diminished only if those interests were damaging the river system in some way, because what we are about is trying to look after the river. In one sense, those who have been hurting or polluting the river over a period of time have had an advantage because they have been allowed to do that. To compensate them because they are being told to stop doing it seems to me contrary to good sense.

Mr WILLIAMS: I certainly take the minister's point. The reason I think it is still pertinent to insist on going forward with this amendment is that the minister has pointed out the flaw in his own argument. If this relates to a matter of polluting the river, the minister already has the Environment Protection Act at his disposal and he can use those provisions which are already available to him, as he rightly pointed out, without the person having any rights to compensation. I take your point; it is not the only example. The reason I think it would be ideal to have this provision in this bill is because this bill is much more encompassing. It covers a much greater area and a much wider sphere of activities. The member for Kavel touched on this point earlier when he asked questions about why we need this bill at all, because a lot of these powers are already conferred under other bills. One of the concerns that members of the opposition have about this bill is that quite often the areas over which it will have its influence stretch a long way from the river.

We saw, and many members talked about, the map which showed the protection zone extending well up into the eastern Adelaide Hills. The minister, I believe, under this act will have power to curtail a range of activities which do not necessarily immediately impact on the river and which are not necessarily of huge import in relation to pollution, reinstating flows of the river or trying to ameliorate salinity issues in the river. But the bill will give the minister a wide range of powers, and I cannot envisage a situation offhand, but I am sure that at some time in the future a minister might wish, for any number of reasons, to cause some person to cease carrying out an activity. I think if a person has been carrying out an activity legally and it is not directly impacting on or polluting the river—it might just be some kind of land use that has become unfashionable—

Mr Brindal interjecting:

Mr WILLIAMS: I will not repeat that. I can envisage that when this bill becomes an act of this parliament its provisions may be used to curtail some activity for a reason which is not even directly related to the river but which might be found to be a loophole that will allow some future minister to curtail an activity which has become unfashionable. I am merely trying to ensure that if that does occur at some time in the future the person involved can claim reasonable, fair and due compensation.

The Hon. J.D. HILL: I think the member misunderstands what this provision is about. It applies only if damage can be demonstrated. It is not damage that is incidental or non-damaging to the river. So, first, you have to prove that there is damage and, in any event, the act that the body would be required to perform has to be commensurate with the damage, so it cannot be unreasonable. I was trying to think of some examples other than pollution, but that is the clearest example I can think of. But another example might be, say, the mooring or launching of vessels on the river at an area which might be particularly fragile. In that case what would the compensation be—you used to moor there, and now you have to moor over there? There is no great loss, I suppose. But this is not about giving any minister the right to change the way things happen. It is only where the river has been directly affected and threatened.

Mr BRINDAL: I need the help of my colleagues on this, because I think it might be important as to whether we divide on this clause. I understand what the minister is saying, but the last bit of this clause says that this is in respect to any requirement imposed by or under this division. So, this regime of not allowing an exemption applies to the whole division.

The Hon. J.D. Hill interjecting:

Mr BRINDAL: Yes, but I refer to the first part of the division. I want the minister to bear with me for a minute because I think it may be of great importance to the member for Chaffey. The first part of the division provides that 'an order may be imposed [for] the purpose of securing compliance with the general duty of care'. The general duty of care is that no-one should do anything to harm the river. I know the minister has this power in regard to current water licences, but water licences are granted for security of tenure. They are a tradeable property right in South Australia and have a very real value.

It could well be—and the minister knows this—that the ministerial council makes a decision, and that decision is to cut all water licences in South Australia. Already the Deputy Prime Minister and the Australian government are talking about paying compensation when water licences are cut. However, under this bill, in exercising a general duty of care not to harm the river, the minister makes an order—which he is quite entitled to make—to protect the river by cutting everyone's licence, as a consequence of which no compensation would be payable. I understand what the minister is saying about all other issues. However—and this is vital to the member for Chaffey and to many members in this house—people have been granted a property right, they have founded businesses on the property right and in some cases the continued commercial viability of their business is

dependent upon the quantum of water they are allowed. If at any time in the future this minister or any other were to take away part of that property right, it would deprive them of part of their livelihood.

I do not think that anyone on this side of the chamber would agree that it is fair, equitable or in any way conscionable that the rest of Australia got compensation. We could have a law where the Prime Minister—and I do not care whether he is ours or yours—can say, 'Isn't it good! In South Australia there's a law and no compensation is payable, so we'll give it to New South Wales, Victoria and Queensland. Isn't it good that South Australia has a law that does its growers in the eye!' I want to be very sure before we finish dealing with this measure that this provision can in no way be held to apply to this situation, because it is vital.

The Hon. J.D. HILL: Under the Water Resources Act—which the honourable member's government implemented—I have those powers now.

Mr Brindal interjecting:

The Hon. J.D. HILL: But you will recall that, when you were the minister, you exercised those powers and took water away from water users in the McLaren Vale area—quite properly. You did not get any criticism from me, despite a number of people tempting me to get into the debate, because I thought it was the right thing to do. You did it without compensation and generally with the agreement of those in that district, other than the odd one or two who had problems. I would want to use that act if I were to do that. I hope the committee, the parliament and the opposition does not now have a policy that would mean that any reduction in water allocations under appropriate conditions would require compensation. If that were the case, then we would be in desperate trouble when we are trying to deal with areas where there has been over allocation. We have seen examples of that having occurred in the past, and the McLaren Vale/Willunga Basin is, indeed, one of those.

This division is about orders that will be applied where a person or a corporation is in breach of the general duty of care, condition or all these other things, and we use the order to get them to comply with what they ought to be doing. So, the issue about lack of compensation applies only when somebody has been compelled to do the right thing, something they ought to have been doing in any event. It would be peculiar to punish somebody and then compensate them at the same time.

Mr BRINDAL: I am just concerned—even if it is examined between the two houses—that we get this exactly right. I have every sympathy for what the member is saying. I have had countless discussions with the member for Chaffey and others, and I know that every irrigator there wants to get it right, too. They do not want something for nothing. I have some sympathy. If McLaren Flats was our water resource, we as South Australians could get together and say, 'This is as much water as God provided. How do we best divide this in an equitable way for you?' Then you get agreement and you do not get the issue of compensation—it is amicable.

We are at the tail end of the river and other states are involved, and the Deputy Prime Minister is running around telling people in Queensland and northern New South Wales, 'If anything is taken away from you, you will be compensated.' I do not think that anyone in this chamber wants to see South Australians get a lesser deal. We just want to be sure that in no way will this be used against people in some way. The member for Chaffey and I know—and the minister knows, because he was on the select committee—that they will cooperate, they will bend over, they will go the extra yards. I understand that the minister has that right and that he should exercise it as needed, but hopefully—and this is a feature of the bill—in concert with the people, in a way that they understand, and in a way that does not dud them.

The Hon. J.D. HILL: It would be appalling if one of the other state governments eventually backed down and decided to start compensating people for a reduction in their water allocation because it would be impossible for the states to meet that obligation in the future. If the commonwealth was to put money on the table to compensate every water user who has a reduction, let it do that, but this is about getting compliance. If someone is in breach of a duty of care or a licence or whatever, how do we get them to comply? We say, 'We are imposing an order on you which will cause you to be compliant.'

It is not about using this mechanism to affect a whole class of people in a general sense. If there was a conspiracy—a whole group of people conspiring to steal water or something—then we could use this provision, but it is not to just change the nature of the system. It is not about that; it is about someone who is actually doing something wrong. We want them to comply; this is the way we will get them to comply; if they fail to comply, the legal processes will ensue. I think you have to see it from that perspective. It is not more than that; that is what it is.

Mr WILLIAMS: In the same way as the minister has just made his last point, I think he should also accept that, if he accepts this amendment, it will not mean automatically that, if someone is caused to desist from performing an activity which they have already been undertaking prior to the commencement of this act, they will automatically receive compensation. It will give them the right to go to the ERD Court (as I am told) to seek a ruling. That is the first point that I need to impress upon the minister.

In answer to the member for Unley's question about water licences, the minister reinforced what I said earlier, that he does have powers under existing acts. I referred to the Environment Protection Act, and he backed that up by saying that he already has those powers under the Water Resources Act. So, what we might be talking about here is a very limited number of orders which could not be achieved under other acts where the minister has other powers not necessarily for compensation.

I remind the committee of a matter which was brought to the attention of the house yesterday by the member for Schubert. A landholder purchased a piece of land at a public auction. The land had been grazed. Subsequent to the purchase, he was told that the land had been grazed with sheep and that he is unable to graze cattle on it because of a regulation under the Native Vegetation Act. That is the sort of thing I am talking about. I am absolutely certain that when this parliament allowed that regulation it did not envisage that at some time in the future it would be used to curtail someone from purchasing a piece of land and grazing bovine because it had been used to graze ovine.

That is why I am quite worried about this clause not allowing compensation. I just reinforce the point. The amendment does not mean that compensation would be automatic. It just means that the person, under certain circumstances, would have the ability to appeal to the court for compensation, and would have to make their case before the ERD Court. I am absolutely certain that the ERD Court would look at the other considerations, whatever they might be, and take into account the community's expectation and

aspiration for the minister's position of seeking to have people desist from certain activity if they were to offer compensation, and then try to assess what sort of compensation would be offered.

The Hon. J.D. HILL: I will not go through the arguments; I have put them before. I accept the point the member makes, that this would not necessarily result in compensation, but it would no doubt result in litigation which, in itself, would make matters complicated and also possibly expensive. I guess it raises the question: who then pays the compensation? The Crown, which is attempting to protect the river, ends up compensating those who have been caught doing something wrong to it. It sounds rather bizarre.

Mrs MAYWALD: I am quite concerned about some of the comments that the minister has made and some of the references that he has given. The McLaren Vale area, as I understand it, was unproclaimed. When it was proclaimed, water was taken back from particular growers, which reduced their capacity to use water in the way in which they were accustomed to using it. The River Murray, however, is already a proclaimed area. The allocations have been applied legally, and it would be my view that any reduction in those current allocations in accordance with any clawback that the government might deem necessary under this bill, or any other bill or any other action, would incur compensation. That compensation would be based on the fact that there is a property right that already has been delivered, and those water licences are tradeable commodities; they are secure allocations as they currently stand. I seek the minister's clarification on that matter, because I am concerned about the comments that he has made.

The Hon. J.D. HILL: I was really talking about the Water Resources Act and not this bill. I was addressing the general issue of compensation for water licences. That is not what this is about. The Water Resources Act does give the minister the right to do just what the member said. The tradeable rights are a licence that they have, and they can sell that licence. But the licence conditions can be changed under certain circumstances, which the Water Resources Act spells out. That is exactly what happened in the McLaren Vale area, as I understand it. Water licences were held, but the trouble was that too much water had been allocated and, through quite a long—and a good—process, the allocations on those licences were reduced. But the Water Resources Act sets out how that would apply. That is really the law that deals with how one would reduce water allocations—not this bill.

Mrs MAYWALD: I understand, from discussions on previous clauses, that this bill, in fact, overrides the Water Resources Act as a motherhood act, and has objects and objectives that are in addition to the Water Resources Act and may have a different implication than the Water Resources Act currently has on those licences. Can the minister clarify whether or not this bill is creating a different range of rules for those water licences that are currently subject to the Water Resources Act?

The Hon. J.D. HILL: Obviously, there is a relationship between the acts and this act will create certain obligations in relation to how water licences are perhaps used, but if I were wanting to reduce the water that individual licensees have, as I understand it, I would need to use the Water Resources Act to do it. Maybe a way of explaining it would be to say that the Water Resources Act takes into account water allocation, water management and a range of other things. This bill brings in some things in addition to that, but it would not reduce the volume of water that licensees currently hold. It may affect, in some ways, the way in which they deal with their allocation. For example, it might deal with the effluent that runs off and goes back into the river. That might be an issue that would come into it.

If we were wanting to reduce licences, we would only do it across the whole basin, in the same way as was done in McLaren Vale. I am trying to get this accurate. I am not being hesitant because I am trying to keep things from the honourable member. I understand that it is complicated. The Water Resources Act is the act which would deal with any reductions in water licences. This bill brings together a whole lot of other processes which need to take into account more than just water issues. I think that is a neater way of saying it.

Mr GOLDSWORTHY: The minister referred to the Water Resources Act. Under that act, licence holders are not precluded from claiming compensation for whatever reason they may see fit. This River Murray Bill is an overarching piece of legislation—and I think the member for Chaffey went to the nub of it—which precludes people from claiming compensation, whereas the Water Resources Act did not necessarily preclude water licence holders from claiming compensation for whatever reason.

The Hon. J.D. HILL: I think the honourable member is mischaracterising this particular provision. This provision relates to orders. Orders will apply to particular individuals or entities who are in breach of the River Murray order, a licence, or some other matter which exists in legislation, and in order to get them to comply, we impose an order upon them. The order will make them do something. What the member for McKillop is suggesting is that, if getting them to do something changes something they had a right to do before this bill came into existence, then they ought to get compensation. It is not a general provision to reduce water licences. That is a red herring really. I should not have engaged in debate with the member for Unley when he raised it. I just picked it up because is it is a particular hobbyhorse of mine.

The Water Resources Act is about the allocation of water amongst a group of licensees in a particular area when that area has been prescribed. The River Murray is an example of that. There is a procedure, which is complex, time consuming and involves a lot of discussion, to change that when there is over-allocation in a prescribed area. This is nothing to do with that. It is outside the bill. If I can give an example of how this order might work, if you have a water allocation licence, you built a pipeline and it damaged native vegetation in an area, went over some cliffs and did some terrible things, an order could stop you doing that. It would not reduce your allocation: it would stop the way you derived your allocation.

Mr WILLIAMS: When the minister mentioned the word 'cliffs', he triggered something which came into my mind when I first marked this piece in the bill when I was reading it. During the second reading debate, somebody talked about the pipes that appeared at Nildottie a few years ago, and the minister has mentioned these, too. That was the point I thought of when I marked this and subsequently had this amendment drafted. Under this provision, the minister would have the power to say to those people when they were installing those pipes, 'You must desist. You must remove those pipes, and you have no right to appeal for compensation.'

The Hon. J.D. Hill: Nildottie?

Mr WILLIAMS: Nildottie was the example that I was thinking of at the time. Having triggered that in my mind, minister, I would be delighted if you could put my mind at ease.

The Hon. J.D. HILL: I will attempt to do so. My advice is that I could not take those pipes away under this legislation. As much as I would personally like to see it happen, I cannot do that, because they have a licence to extract water, and what they are doing is perfectly legal. I am advised that, if those pipes had not been constructed and they were in the process of blowing up the cliffs to do so, I could stop them.

Mrs MAYWALD: For the record, it is very unfair to say that they have blown up cliffs or that they have done anything wrong in respect of the development at Nildottie. I need to put this on the record for a very specific reason. There are developers who do the wrong thing and others who go through the legal process. The Nildottie project went through the legal process. Although the Nildottie pipes are unsightly to some, activities undertaken by other developers that have resulted in far more tragic consequences have not been considered by the press, the media and the general public. The Nildottie example should not be used to highlight bad practice, because the developers did what they did legally; they did it with the best intentions; they did it with the minimum damage to the cliffs; and they did it in a far less intrusive way than have other developers.

The Hon. J.D. HILL: I am happy that the member has corrected the record. I was not suggesting that the developers had acted illegally, or that they had blown up cliffs. I was making the point that if an irrigator, who had a licence properly given, was about to access water by blowing up a cliff we could use this order to stop them.

Amendment negatived; clause passed.

The Hon. J.D. HILL (Minister for Environment and Conservation): I move:

That the time for moving the adjournment of the house be extended beyond 10 p.m.

Motion carried.

Clause 30.

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

Page 39, line 9—After 'carried' insert:
out

Amendment carried; clause as amended passed.

Clause 31 passed.

Clause 32.

Mrs REDMOND: My concern relates to subclause (3), which provides that an appeal must be made within 14 days after the order is issued. I really think that, in fairness, it should be after the order is issued and served. Whilst I note that subclause (4) provides a mechanism whereby if someone has to lodge an appeal out of time there is an ability of the court to extend the time, it seems to me patently unfair to reverse the onus in that case. It is my view that it should always be that someone who has a right to appeal should be given reasonable notice of the right about which they wish to appeal. The insertion of the words 'and served' after the order being issued would overcome that problem. I do not want to take up unnecessary time at this stage but perhaps the minister could look at it between this place and the other place.

The Hon. J.D. HILL: I am happy to have a look at it.

Mrs REDMOND: In relation to subclause (10), I note that the measure provides that the court may make various orders, confirm, vary, and so on, but there is no provision for costs. I therefore seek confirmation from the minister, perhaps through his advisers, that costs will be covered in any event by provisions in the ERD Court.

The Hon. J.D. HILL: That is true.

Clause passed.

Clause 33.

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

Page 42, after line 4—Insert

(2) However, subsection (1) does not apply if the effect is valid under a law of the state or the Native Title Act 1993 (Commonwealth).

This amendment adds a new subclause to the provision stating that the River Murray Bill does not affect native title rights. The amendment was suggested by indigenous groups and parliamentary counsel to clarify the intention and to be consistent with an identical provision (section 241) in the Local Government Act 1999. We have had some correspondence on behalf of Aboriginal groups in relation to this, but this makes it absolutely clear that this will not affect native title rights.

Mr BRINDAL: We have no objection to the amendment.

Amendment carried; clause as amended passed.

Clause 34.

The ACTING CHAIRMAN (Ms Thompson): The minister has an amendment at line 14 and the member for Chaffey has one at line 13.

The Hon. J.D. HILL: I do not intend to move the amendment in my name to line 14.

Mr BRINDAL: I believe from some informal discussions in the chamber that, while my amendment was to 16(a), the member for Mitchell has an amendment to 16(a) that satisfies the opposition, the government, the National Party and other prominent members in this chamber. That being the case, I will not proceed with my amendment if the member for Mitchell is to move his.

Mrs MAYWALD: I seek clarification on those amendments. I understood that the member for Unley's amendment to clause 34 would be considered because the member for Mitchell's amendment is consequential on that, and informal discussions have indicated that we will support his amendment. We need to deal with the member for Unley's amendment, which is that this clause be opposed, before moving on to consequential amendments. Is that right?

Mr HANNA: Yes, that is right, and I will clarify that when I get the chance.

The ACTING CHAIRMAN: I think that the member for Chaffey's amendment might be required.

Mrs MAYWALD: If the member for Unley's amendment gets up, which is to oppose clause 34 in its entirety, then mine no longer applies. If that gets up, then my amendment, which is to amend clause 34 after line 13, will be null and void.

The ACTING CHAIRMAN: That is right. However, if that does not get up, do you wish to proceed with your amendment at that stage?

Mrs MAYWALD: The question is whether I need to move this amendment, expecting that the next one may be knocked out, and it might knock mine out as a consequence. I move:

Page 42, after line 13—Insert:

(ba) to consider the interaction between this act and other acts and, in particular, to consider the report in each annual report under this act on the referral of matters to the minister under related operational acts; and

The ACTING CHAIRMAN: If the member for Unley is not successful with his opposition to the clause, it is my

understanding that you wish the minister's clause to be amended.

Mrs MAYWALD: Yes. I wonder why we need to consider my amendment first when it is at line 13 and the member for Unley's amendment is at line 5. I understood that he intends to oppose the entire clause. Should we not deal with that before we deal with mine?

The ACTING CHAIRMAN: No.

Mr BRINDAL: I have spoken to the member for Mitchell and I apologise to the minister for some confusion here. The member for Chaffey is quite right. We need to oppose the clause and, if that is successful, later that triggers the establishment of the parliamentary committee under the Parliamentary Committees Act and then the amendment of the member for Mitchell kicks in.

Mr HANNA: Strictly speaking, what is on the books in my name and the honourable member's name is opposition to the clause. All that is required is that the clause be put and we oppose it. If I have the chance to speak, I will explain that I will put an amendment should the clause be defeated.

The ACTING CHAIRMAN: I accept the honourable member's point of order. That is exactly in accordance with the way I wish to proceed, namely, that an amendment indicating opposition is simply opposition—you vote against the clause. The member for Chaffey has an amendment to the minister's clause. Should the minister's clause stand, she has a chance of testing whether her amendment is supported.

Mrs MAYWALD: In light of informal discussions in the committee, this amendment will be taken up by the subsequent amendment to be moved by the member for Mitchell, so I withdraw my amendment.

Amendment withdrawn.

The ACTING CHAIRMAN: Is the minister proceeding with his amendment?

The Hon. J.D. HILL: No, I will not proceed with my amendment. I was going to accept the amendment moved by the member for Chaffey so that it existed in legislation for nanoseconds. I will not oppose the vote against this clause and I indicate that the government will accept the member for Mitchell's resolution of this matter. This is not my preferred position, but it is a negotiated position and the best outcome we can get under the circumstances. It would have been better to have a committee specifically dealing with the River Murray, which would have given greater focus to this legislation and its process, but I can count.

The alternative amendment moved and withdrawn by the member for Unley was inferior to what the member for Mitchell is proposing. The member for Mitchell's approach is a superior way of doing it because it takes into account the way the government's policy is moving, which is natural resource management rather than specific resource management. There is an issue about the relationship between the proposed committee the member for Mitchell is moving with the existing ERD committee, and that is a matter for others to try to resolve as there may be overlapping responsibilities. I do not know whether it is a problem, but it is strange to deal with committees of the parliament in this bill. I was proposing a minor unpaid committee that would operate under this legislation, as do other committees. I accept the reality and will now sit down.

Mr HANNA: Clause 34 of the bill is going to be defeated on the understanding that I will later be moving a clause that has substantially the same effect, viz establishing a committee to deal with the subject matter of this bill. In fact, it is going to deal with more than that, because it will be a natural resources committee. I will go into more detail about it when we reach that point and I actually move the amendment. It is worth stating on the record that this clause is going to be defeated now on the basis that I will be moving this amendment shortly.

Clause negatived.

Clause 35.

Mr BRINDAL: I wish to raise a point for the minister to discuss with various parties between the houses. Whilst I have no opposition to this, it was pointed out to me by one of my colleagues that the immunity provision in the Water Resources Act strikes us as being simpler to understand and more elegant. We do not oppose the immunity provision but ask the minister to look between the two houses at the way the immunity provision is expressed within the Water Resources Act, which we think is much better. We suggest that he transpose the provision from the Water Resources Act into this act, because it is simpler, easier to understand and slightly less jargonistic.

The Hon. J.D. HILL: I am more than happy to look at that.

Clause passed.

Clause 36 passed.

Clause 37.

Mrs REDMOND: As I read this clause, it says that, once a person is convicted of an offence, two provisions, (a) and (b) can apply. Subparagraph (b) clearly applies if they continue to do or not do whatever it is that they are supposed to have done or not done after conviction, and there is a penalty provided for that. But as I understand subparagraph (a), it basically says that, after you are convicted, there can be a penalty for each day that you committed the offence even prior to your conviction. Am I correct in my understanding of that?

The Hon. J.D. HILL: The answer is yes. The provision for a continuing offence has been modelled on the Environment Protection Act, section 123. The provision reflects that, where offences have caused harm to the environment, in this case to the river, the extent of the damage caused is likely to reflect the period over which the offence occurred, where it is a continuing and not a one-off offence. That is, the longer the offence occurs, the greater the damage to the environment, for example, pollution of the river through discharge of sewage to the flood plain.

Mrs REDMOND: As I thought, that is the meaning of it. I have a concern about the way it is worded. It seems to me that it is a mandatory provision that a person will be liable for that penalty of one-tenth of the maximum penalty for each day that it continues when, in fact, someone could be completely unaware of their commission of the offence until such time as it is brought to their attention and taken to court.

I have a concern that that may impose an unreasonable obligation. I understand the sense of what the minister wants to achieve, and I have no difficulty with that; nor do I have any difficulty with the idea expressed by the minister. However, I do have a concern lest a person be caught in a situation where they are not aware that they are committing an offence, but they are nevertheless bound to pay a penalty, which could be quite onerous given that the maximum penalty itself could be a large amount and then there is a penalty of one-tenth of the maximum penalty for every day, even if the person involved is unaware of the commission of the offence; this could make it an extremely onerous provision.

The Hon. J.D. HILL: As I have said, this is consistent with other legislation. It is not mandatory in the sense that the fine will be imposed. It is up to a court to determine the quantum that would be imposed, and the court would obviously take into account all the circumstances. Whether it was reasonable for the person to have known or not to have known obviously would be brought to bear.

In the case of an industry that was doing certain things, I guess there is a higher standard imposed on them to comply with the general good.

Mrs REDMOND: The minister has put on the record what I wanted to hear, that is, that the court is expected to take into account the circumstances in which that occurs and that it will not be a mandatory penalty in that regard.

Mr BRINDAL: I am prompted to contribute to this clause only in so far as a comment made by the minister in reference to the discharge of sewage to the flood plain. In connection with these matters, it does not quite fit but it does. As the whole house acknowledges, this bill is an extraordinarily powerful new vehicle for this minister, and it is a chance to do some new things. Specifically, one of the things that used to get in my craw in respect of the river and the health of the river, and the duty of care to the river, is that in this state we have health legislation and various other statutes which prohibit water, no matter what classification, that is being used for sewage to be put back into the river. We can have class A potable water, which has a health standard far and away above the water that is withdrawn from the river, but, by law, under the Health Act and various other legislation, that water cannot go back into the river.

The minister knows that in the Thames and in virtually every other river in the world that is a nonsense. In the river, we can have dead emus and dead goodness knows what, birds doing goodness knows what, and all sorts of things accidentally and deliberately discharged there, but we cannot put grade A potable water back in the river.

Because of the minister's comment, one of the things I would like him to do is between the houses or subsequently—since this gives him the power to override other acts—is to consider, for goodness sake, for the duty of care of the river, overriding some of the over-onerous and stupid provisions of the Health Act and putting back into the river more water that is probably in better condition than when it was taken out. By the way, the minister might be able to give some of the river towns a rebate on the water put back in the river and hence help the whole economy of the region. If they take water out, they pay for it. If they put water back, they get a rebate, because we need the water in the river. Incidentally, it will help the environmental flow, and the member for Chaffey has probably as many golf courses as she needs in her area!

The Hon. J.D. HILL: That is an interesting issue, but it has nothing to do with this clause. I guess it is a significant policy issue for government, and I am not too sure that I can deal with that policy issue between this house and the other house. I think the member has made a perfectly valid and reasonable point. If the water quality is better, why would you not put it back in? I guess it is a matter of aesthetics, and Australians get a bit nervous about those kinds of things. We will certainly take that on board.

Mrs MAYWALD: How will this clause impact upon local government in respect to ongoing investment in STED schemes along the river? For example, at Waikerie we have effluent ponds on the flood plains that are subject to an EPA order, but at this stage we are unable to move them during the negotiation between local and state government and various other authorities to determine the best way to move those off the flood plain. Would local government be in breach of this provision, and would an offence be committed that would be subject to a penalty?

The Hon. J.D. HILL: This is about a continuing offence. We would have to look at the facts of the case to determine whether or not it was a continuing offence. I do not know whether this particular clause can address that issue. If they are found to be in a continuing offence, if they have been given an order not to do something and they keep doing it, that would be an example of a continuing offence. I am not sure that a licensed STED scheme, which is subject to a licence through the EPA, would be something that could offend this provision. My advice is that potentially it could be caught by this act, but it is much more likely to be caught under the existing provisions that apply. This act would apply for circumstances that are not already caught and, where there are already existing provisions, they would be preferred.

Clause passed.

Clause 38.

Mrs REDMOND: I mentioned in my second reading speech my concern about the fact that clause 38(1) essentially reverses the onus of proof so that the directors have to establish their innocence, rather than the prosecutor establish their guilt. If the minister can tell me there is other legislation with a comparable provision, then I will let the matter rest.

The Hon. J.D. HILL: The provision is to be found in both the Environment Protection Act (sections 124 and 129) and the Water Resources Act (sections 150 and 151)—an act which was introduced by the honourable member's predecessor, the member for Heysen.

Clause passed.

Clause 39 passed.

Clause 40.

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

Page 44—
Line 28—Leave out 'notice of'
After line 29—Insert:
or
(e) be served on the person by fixing it to, or leaving it on, a vessel or craft that the person is apparently in charge of, or expected to board at some stage, if the person giving or serving the document has reasonable grounds to believe that service in this manner will bring the document to the attention of the person to be served.

The first amendment is a drafting amendment. It is to leave out the words 'notice or'. The bill does not make provision for notices separately and the words 'other document' that already appear in the clause are sufficient to cover other documents besides orders. The second amendment adds to the method for service of orders. The amendment will ensure that a person residing on a houseboat can be effectively served with a River Murray protection order. This relates to amendments made above to powers of authorised officers (clause 14).

Amendments carried; clause as amended passed.

Clause 41 passed.

Clause 42.

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

Page 46—
Line 21—Before 'make' insert:
may
Line 23—Before 'provide' insert:
may

These are drafting amendments to correct typing errors.

Amendments carried; clause as amended passed.

Mr BRINDAL: As a procedural matter, I believe there is some agreement to recommit clause 6. Would that be appropriate before we move onto the schedules? Then we will have handled the bill in its entirety before the schedules.

Clause 6—reconsidered.

The Hon. D.C. KOTZ: I move:

Page 11—
Line 8—After 'perspectives' insert:
and to give special acknowledgment to the need to ensure that the use and management of the River Murray sustains the physical, economic and social well being of the people of the State and facilitates the economic development of the State.
Line 36—After 'enhancement' insert:
and to the facilitation of sustainable economic development.

Previously when we were discussing clause 6 the minister kindly assented to considering an amendment that introduced into this clause the matter of facilitating economic development. The Water Resources Act has a similar clause. To expedite the debate I will rest on the comments I made initially in suggesting that this amendment be made. I thank the minister for his reconsideration of this clause and for his acceptance of this amendment.

Mrs MAYWALD: I commend the member for Newland for these amendments; they are entirely appropriate. I also commend the minister for his agreement to reconsider this clause so that we are able to include them in the objects.

Amendments carried; clause as amended passed.

Schedule.

The ACTING CHAIRMAN (Ms Thompson): I understand that the most efficacious way of dealing with the schedule is to go through and move any amendments in the order in which they arise.

The Hon. M.R. BUCKBY: I move:

Clause 5—
Page 51, lines 28 to 33—Leave out paragraph (d) and insert:
(d) by inserting after subsection (2) of section 24 the following subsection:
(3) The Minister must, in relation to the preparation of an amendment by a council or the Minister under subsection (1) that relates to a Development Plan or Development Plans that relate (wholly or in part) to any part of the Murray-Darling Basin, consult with the Minister for the River Murray.

This amendment arises from the earlier amendment in the heart of the bill itself, and I think it is fairly self- explanatory. The earlier change to the bill took out the ability for the minister to have a role in the PAR, and this basically places in the schedule the fact that the minister who has control of the Development Act must consult with the Minister for the River Murray on any amendment report or development plans that would affect that River Murray protection area. So it ensures that the Minister for the River Murray is consulted and, obviously, if he or she has any concerns it can be raised at that particular time.

The Hon. J.D. HILL: I have already addressed this issue and, for the sake of including my comments briefly at this point, I say that the government does not support the amendment. We believe it is fundamentally better for the Minister for the River Murray and the Minister for Planning to reach agreement on how PARs should be developed, and if we cannot reach agreement it should go to cabinet rather than one have power over the other. In terms of dealing with the issues, that would be a better way of getting positive outcomes for the River Murray than having a PAR imposed by one minister and another minister going through and knocking out particular developments which are in accord with that PAR. I think it would be impractical and less elegant, if you like, than what is proposed by the government. So the government will not support the amendment.

Amendment negatived.

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

Schedule, clause 6-
Page 54, line 11—After 'amended' insert:
(a)
Page 54, after line 20—Insert:
(b) by inserting after paragraph (a) of section 112(3) the following paragraph:
(ab) include a specific assessment of the state of the River Murray, especially taking into account the Objectives for a Healthy River Murray under the River Murray Act 2002; and

This is the matter that was raised by the member for Davenport. Unfortunately, he did not like my version of it. This gives the EPA a responsibility, each five years, in the State of the Environment Report to include a chapter on the River Murray. I have addressed this previously and think it is a sensible way to go and commend this amendment to the committee.

Amendment carried.

Mr HANNA: I move:

Schedule, page 65, after line 34—Insert new clauses as follows:
Amendment of Parliamentary Committees Act 1991
16A. The Parliamentary Committees Act 1991 is amended—
(a) by inserting after paragraph (h) of the definition of "Committee" in section 3 the following paragraph:
(i) the Natural Resources Committee;;
(b) by inserting after section 15I the following Part:
Part 5D—Natural Resources Committee
Division 1—Establishment and membership of Committee
Establishment of Committee
15J. The Natural Resources Committee is established as a committee of the Parliament.
Membership of Committee
15K. (1) The Committee is to consist of seven members of the House of Assembly appointed by the House of Assembly.
(2) A Minister of the Crown is eligible to be a member of the Committee, and section 21(2)(e) does not apply in relation to the members of the Committee.
(3) The Committee must from time to time appoint one of its members to be the Presiding Member of the Committee but if the members are at any time unable to come to a decision on who is to be the Presiding Member, or on who is to preside at a meeting of the Committee in the absence of the Presiding Member, the matter is referred by force of this subsection to the House of Assembly and that House will determine the matter.
Division 2—Functions of Committee
Functions of Committee
15L. (1) The functions of the Committee are—
(a) to take an interest in and keep under review—
(i) the protection, improvement and enhancement of the natural resources of the State; and
(ii) the extent to which it is possible to adopt an integrated approach to the use and management of the natural resources of the State that accords with principles of ecologically sustainable use, development and protection; and
(iii) the operation of any Act that is relevant to the use, protection, management or enhancement of the natural resources of the State; and
(b) without limiting the operation of paragraph (a), with respect to the River Murray—
(i) to consider the extent to which the Objectives for a Healthy River Murray are being achieved under the River Murray Act 2002; and

(ii) to consider and report on each review of the River Murray Act 2002 undertaken under section 11 of that Act by the Minister to whom the administration of that Act has been committed; and

(iii) to consider the interaction between the River Murray Act 2002 and other Acts and, in particular, to consider the report in each annual report under that Act on the referral of matters under related operational Acts to the Minister under that Act; and

(c) to perform such other functions as are imposed on the Committee under this or any other Act or by resolution of both Houses.

(2) In this section—

"natural resources" includes—

(a) soil, geological features, water, vegetation, animals and other organisms, and ecosystems; and

(b) the natural amenity value of an area.

Amendment of Parliamentary Remuneration Act 1990

16B. The Parliamentary Remuneration Act 1990 is amended by inserting at the end of the Schedule the following items:

Presiding Member of the Natural Resources Committee (unless a Minister) 14

Other members of the Natural Resources Committee (unless a Minister) 10

Long title—After "the Opal Mining Act 1995," insert:

the Parliamentary Committees Act 1991, the Parliamentary Remuneration Act 1990,

The one substantial change that I want to make to the government bill is to expand the scope of the committee proposed by the government from a committee that deals solely with River Murray issues to a committee that deals with the natural resources of the state generally.

I had some discussion with other members of the parliament about this issue, particularly with the member for Chaffey representing the National Party and the member for Unley representing the Liberal Party, and there was consideration of three options, it is fair to say. One was a committee that solely looked at the River Murray. One was a committee that looked at water resources throughout the state—and, indeed, that was the recommendation of the Select Committee on the River Murray which I have spoken about numerous times in the past couple of years.

Thirdly, there was the possibility of having a natural resources committee. Integrated natural resource management is the trend. It is the philosophy which is superseding the more fragmented approach to the various aspects of natural resources. In other words, we need a committee of the parliament which looks at the soil, vegetation, water resources and so on of the state in an integrated way. Of course, in a general sense all those aspects of the environment interrelate with each other.

As I said, the sole interest I had was in expanding the scope of the committee. However, in being able to put forward an amendment which would find universal acceptance, I found that I had to take on board some preferences of other members of the house. So, for example, whereas I would have preferred a joint committee of both houses, after negotiations with the Nationals, the Liberal Party and the Labor Party, the prevailing view was that it should be a committee of this house. In terms of a committee of this house, I would have preferred it be a five member committee. However, the prevailing view was that it should be a seven member committee. I suppose that underscores the significance attached to the River Murray issue by the various parties of this house. Thirdly, there was discussion about how much committee members should be paid to be on this committee. I am glad to say that I was able to prevail upon my colleagues to at least lower the rate of pay from that which was put forward by the member for Unley. I do not say that he was grasping in putting his original amendments that way. It is just that a couple of the parliamentary committees have a higher rate of pay, and I have confidence that the member for Unley was simply wishing to create equity between a couple of the more important committees of the parliament.

The scope of the committee now is something with which all members can be quite happy. I will not repeat them all, but I stress that the committee will be looking not only at the operation of this act but at the various aspects of the environment and natural resources in this state in an integrated way, and will keep the principles of ecologically sustainable use in mind in examining those resources. I also pay tribute to the member for Chaffey for a principle which she wished to have included, and I specifically refer to clause 15L(1)(b)(iii). That is the concept that the committee should look at the interaction between the River Murray Act and other acts, and consider the report in each annual report under the River Murray Act, on the referral of matters under related operational acts to the River Murray minister. From the schedule as a whole one can see that many other pieces of legislation are relevant to River Murray matters, and it is very appropriate that the committee examine the interaction between those various pieces of legislation. I thank the member for Chaffey for that contribution.

Finally, in relation to the amendment, I note that the minister has said that it raises an issue of how this committee fits in with the other parliamentary committees, in particular with the Environment, Resources and Development Committee. I considered the work of the ERD committee before formulating this amendment, and it seems to me that much of the ERD committee work—an ample amount of work in its own right—is devoted to what can be called planning and development issues, in particular built form issues, issues to do with mining or, for example, issues about how industrial developments might have an impact on the social or natural environment.

So, there will continue to be ample work for the ERD Committee, but I think it is important that we have a committee devoted exclusively to the natural resources of the state to look at the broad range of issues involved with an integrated approach. To the extent that there may arise or remain inequities perceived between the various parliamentary committees, that is something that will have to be dealt with at a later date.

The addition of this parliamentary committee will mean that there will be a total of seven parliamentary committees, which are listed in the Parliamentary Remuneration Act. There are matters such as three of those committees having cars and the others not. I am not going to go into any of those issues in detail, but various members (including the member for Schubert) have suggested that the parliamentary committees in general need to be reviewed. I think it will be appropriate to do that once this legislation goes through the parliament.

Mrs MAYWALD: I rise to support the amendment moved by the member for Mitchell. I commend him for the approach he has taken. In the South Australian public general arena we have had much debate recently on the direction of natural resource management. In fact, the government has taken a strong lead role in moving South Australia towards a more integrated approach to natural resource management.

I understand that legislation will be introduced later in the year which will refer to that. In my own community in the seat of Chaffey (which, of course, has a significant area of the River Murray to be a prescribed area), I believe the debate is currently at the forefront of many of my community organisations in respect of natural resource management.

The expansion of this committee to include issues over and above just the River Murray and into natural resource management is timely. I commend the member for Mitchell for that, and I also thank him for including in his amendment one which I proposed during previous discussion on this bill. Subsequent amendments have meant that this is the appropriate place for that. The amendment I moved makes specific reference to the PAR process in that the interaction between this act and other acts, and in particular the referrals to the River Murray minister, are reported on in the annual report to this parliament. This committee will have the opportunity to review those referrals and the actions in respect of those referrals. I think that is particularly important for local government and for the future development of regions along the River Murray.

I understand that the main principle of this act is to protect the natural environment and enhance and restore the River Murray as far as practicable. However, I am also a firm believer that sustainable development should be encouraged. Therefore, I believe that that particular provision which has been adopted by the member for Mitchell provides an opportunity for review of the referral process, and that will provide an avenue for local government to further explore decisions about which they may feel aggrieved.

Mr BRINDAL: In withdrawing my amendment in favour of that of the member for Mitchell, it is obvious that the opposition Liberal Party supports the honourable member's amendment. However, no party in this place has a monopoly on wisdom. It is good to see the Greens party represented, and I hope that it will continue to contribute in some useful measure to debate in this place.

Secondly (and this is about the only point with which I take issue with the member for Mitchell, but not in a put down way, because what he said was quite right), the house, when it created a number of committees, created two senior committees: the Economic and Finance Committee and the ERD Committee. I was here when they were created: it was the brainchild of the then member for Elizabeth (Hon. Martyn Evans), who was then an Independent member. Those two committees were created as senior committees because they were the enduring legacy of the public works and the public accounts committees, and they dealt with, therefore, the financial output of South Australia.

It is interesting that, in the case of the ERD Committee, the very reason for creating its seniority—public works—was held to be too much of a bind on the committee. Public works was then excised and put back in its absolute and traditional form, but without the perks that went with its being a senior committee of the parliament, that is, the motor car and the extra salary. The reason why, in this one particular—and this only particular—I disagree with the member for Mitchell, and why I was one who argued for the high salaries, is that I believe that there should be equity for all committees. If there were not to be equity for all committees, I would put forward to this house the radical view that perhaps they should be paid based on the number of times they sit or on the results they produce, and we might find some turn around in the way in which current committees are paid.

The other reason (and this was what I was thinking about when I suggested the higher salary) was simply this: we have two committees that deal with the application of public money—the ERD Committee and the Economic and Finance Committee. This committee will be given the unique responsibility of handling, on behalf of this parliament, in concert with the minister—in parallel with the minister in many ways—our most precious natural resource; arguably, the greatest single source of rural wealth generation in this state. So, it was to acknowledge the economic and environmental importance, all combined, of this committee, which I say makes it one of the paramount committees of this parliament.

With respect to the final argument about overlap of committees, I believe that, at one stage, four of our committees were looking at the issue of stormwater in various ways. I think the Subordinate Legislation Committee and the ERD Committee were looking at it, and the Public Works Committee was looking at it in terms of utility of buildings and how better to use our water resources. But I would say 'Hooray!' I do not think that overlap is a bad or a dangerous thing in this parliament. If five committees wanted to consider the River Murray, and consider it well, and each contributed one good idea, we would have five good ideas. I do not think that overlap is a bad thing. I do not think that all of us, working on the same issue, if we come up with productive results, is in any way bad. Every one of the committees reports to this place, and this place then sifts the work of the committees.

So, five committees produce a similar report: they come in here, we can take the best pieces of each report, and the parliament is better by the process. I do not think that overlap is a problem. I disagree with the member for Mitchell only on the level of salary, for the reasons that I have outlined. But this place works on consensus, and the fact is that, on that issue, my view did not prevail. On the matter of integrated natural resource management, the member for Chaffey, in staunch representation of the Nationals, tied to the land as they are, and the member for Mitchell, who sits on the green and is the green, were predominant. That is how consensus works. We are all happy enough with the solution, so I support the amendments of the member for Mitchell, as do my colleagues.

Amendment carried.

Mr GOLDSWORTHY: I have a couple of general questions concerning the transitional provisions of the schedule. I refer to page 48, which talks about the River Murray protection area. I referred to this reasonably extensively in my second reading contribution. The member for Heysen touched on it in her questioning in the committee stage last week. She almost stole my thunder because she started talking about towns and areas in my electorate. Looking at the proposed zone (and the map was issued to us last week), can the minister tell me what criteria will be applied to determine the developments that will be affected and subsequently referred to his office? As I said, the member for Heysen spoke about developments in Mount Barker, Nairne, Littlehampton and communities on the eastern side of the Mount Lofty Ranges which fall into my electorate and the electorates of the member for Schubert, the member for Heysen and the member for Finniss.

If this protection area and the map that we have before us are really died in the wool, it would mean that all my electorate on the western and eastern side of the Mount Lofty Ranges will come under an even more stricter regulatory regime than is imposed currently. As the minister may be

aware, a set of hills runs towards the eastern boundary of my electorate and that is the delineating line. Obviously, to the west of that line the water runs to the west and falls in the Mount Lofty catchment area. To the east of that set of hills, it runs between Mount Barker and Hahndorf—and I know the set of hills very well because, as the minister would appreciate, I drive through my electorate every day of the week when the house is not sitting—and it runs to the east of Woodside.

What criteria will be applied to determine what developments occur in this zone, if this is the first and final draft of the zone? Given that the Mount Barker, Littlehampton and Nairne area is one of the fastest growing residential developments in the state, what developments will be required to come into minister's office, given the fact that local government, the planning process, and so on, are involved?

The Hon. J.D. HILL: I know this is of concern to members whose electorates will be affected. All I can say is that we have made no decisions yet. What we did was to provide a first cut, if you like, of the regulatory framework so that members had an indicative understanding of what might happen, but nothing has been finalised. We will consult with the community, members of parliament and all the bodies which have an interest in this issue to get something, which, we hope, will be done on a consensual basis. As I have said before, it is important that we try to build up consensus around this bill and the protection of the river because it strengthens our capacity to deliver.

In response to the member's question, we have made no decision yet, so it is hard to answer that question. However, we will certainly consult with the member, and we can set up a special meeting about those issues. I do not know the geography of the member's electorate as well as he does, but we can go through those issues with him; if he has any particular concerns, we can take those on board.

Mr GOLDSWORTHY: I appreciate that. Can the minister confirm that this is only the first draft; that nothing is set in concrete in regard to this protection area; that an extensive consultation process will be undertaken, including local government, the respective councils in the Hills area (the Mount Barker council, the Adelaide Hills council); that public consultation meetings will be held; and that a whole range of methods and initiatives will be undertaken for a very open and transparent process?

The Hon. J.D. HILL: We are committed to a full consultation process. I refer the member to the process that we undertook to get this far with the bill, when we consulted with all the stakeholder groups. Public discussion took place for months, and anybody who wanted a say had a say. I undertake that we will go through a similar process in relation to the regulations. We will talk to the same people and get them to sit around a table and work out what they think should happen. I give that undertaking.

Mrs REDMOND: I have one question. I am curious about how that preliminary first draft (and I appreciate everything the minister said about it being a preliminary draft subject to consultation) included townships in the Hills but did not seem to include, in particular, the townships of Murray Bridge and Mannum.

The Hon. J.D. HILL: In relation to the river towns, only the town centres have been left out, not the township. This is a very rough cut. A lot of thought has not yet gone into this. I do not mean that disparagingly of the officers, who were rushing somewhat because we had made a commitment to the member for Unley to submit a draft set of regulations so that members had some idea of what they were about. We thought that was fair enough. However, do not think that this is the way that we will necessarily proceed. We will talk with everybody who wants to talk with us about what the regulations should look like.

Mr GOLDSWORTHY: Finally, only being a new member, I might be misunderstanding this. If this bill is passed by the parliament, are we not leaving things a little too late to try to fill in the detail after the event? Are things not left a bit too open-ended? I think that we should have crossed the t's and dotted the i's before the bill passed the parliament.

The Hon. J.D. HILL: Normally, you would not see the regulations until the bill had passed through both houses, and the regulations would be introduced subsequently. There is often quite a delay between the legislation and the regulations. We are letting you see the regulations in advance of the bill passing, but that is not always the case; in fact, quite often you do not see the regulations until well after the bill has passed through parliament. I move:

Schedule, clause 20, page 72, after line 21—Insert:
by inserting after subsection (5) of section 38 the following subsection:
(5a) The Minister may refuse to grant approval for the transfer of a licence or the whole or part of a water allocation if the licensee is in breach of a condition of the licence.;
Schedule clause 20, page 76, lines 17 and 18—Leave out "Minister considers that the amendment will have no significant impact on" and insert:
amendment is not to be used to effect a reduction in
Schedule, clause 20, page 76, after line 18—Insert:
by inserting after section 118 the following section:
Effect of declaration of invalidity
118A. If a part of a plan under this Part is found to be invalid—
(a) the balance of the plan may nevertheless continue to have full force and effect; and
(b) if the part that is found to be invalid arises from, or is attributable to, an amendment (or purported amendment) to the plan then the amendment (or purported amendment) will, to the extent of the invalidity, be disregarded and the plan will, to that extent, revert to the position that applied immediately before it was sought to give the amendment (or purported amendment) effect.;
Schedule, clause 20, page 76, line 33—Leave out "will be' and insert:
is entitled to be
Schedule, clause 21, page 78, line 3—After "review" insert:
by the relevant authority
Schedule, clause 21, page 78, line 4—After "this Act" insert:
in order to ensure that proper consideration is given to any relevant object of this Act.

Mr BRINDAL: To expedite matters, the opposition accepts the minister's amendments.

Amendments carried; schedule as amended passed.

Title as amended passed.

Bill reported with amendments.

The Hon. J.D. HILL (Minister for Environment and Conservation): I move:

That this bill be now read a third time.

I just want to wrap up with a couple of comments. First, I thank the house. It has been a bit of a marathon effort. I do not know how many members spoke on this bill, but I would say just about every member from the opposition side and eight or so from the government side. I am not too sure how many bills actually have that number of members speak, but it was a very good and interesting debate. The committee stage, I think, proceeded in a very good fashion. I thank the member for Unley, in particular, and his colleagues for their

cooperation and assistance in getting this very important piece of legislation through this house.

I think that it will be groundbreaking. I think that it will help South Australia's case immeasurably, in the eastern states in particular, in terms of advancing our cause to get a better deal for the River Murray for South Australia. I really do thank all members for their contribution and their assistance. Finally, can I thank my advisers, Megan Dyson and Peter Howie, and the parliamentary draftsman Richard Dennis for their outstanding professional assistance to me and to other members during the course of the preparation of the bill and its passage through this house.

Mr BRINDAL (Unley): As the bill passes out of committee, first, I would like to congratulate the government. This is an historic piece of legislation and its importance is not to be diminished either by this chamber tonight or, I think, by South Australians in the future. It is a first and this government's introduction of it is to be congratulated. Also, I particularly pay tribute and thank the people who have supported the argument on this side of the house. I thank the minister, first, for accepting so many of the amendments. I think that all members will agree that it might have been laborious but the bill, as it now leaves this chamber, is an improved bill by comparison with what came into the chamber and that, after all, is part of the parliamentary process.

In particular, I thank those members on my side of the chamber who contributed so willingly and so earnestly in the debate. In the 13 years that I have been in this place, I do not think I have ever heard a debate where it was less difficult to get members to contribute or where members were more diverse in their views. All the questions might not have been clinical and they might not have been the exact questions that the lawyers would ask, but they were all earnest, they were all well-intentioned and the bill was debated in good spirit on all sides.

In thanking those who supported me on this side of the house, I also mention the National Party member for Chaffey and the member for Mitchell. While they would be most upset if I counted them as part of my team, I can say that in this bill I considered them as colleagues and great contributors to the debate. I thank the minister, I congratulate him and I thank all members who contributed, as well as for the spirit in which this bill now leaves the chamber. South Australia should be thankful.

Bill read a third time and passed.

ADJOURNMENT

At 11.03 p.m. the house adjourned until Wednesday 2 April at 2 p.m.