HOUSE OF ASSEMBLY

Tuesday 25 May 2004

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

ASSENT TO BILLS

Her Excellency the Governor, by message, assented to the following bills:

Authorised Betting Operations (Betting Review) Amendment,

Consent to Medical Treatment and Palliative Care (Prescribed Forms) Amendment,

Local Government (Flood Mitigation Infrastructure) Amendment,

Meat Hygiene (Miscellaneous) Amendment.

PODIATRY PRACTICE BILL

Her Excellency the Governor, by message, recommended to the house the appropriation of such amounts of money as might be required for the purposes mentioned in the bill.

PAPERS TABLED

The following papers were laid on the table:

By the Premier (Hon. M.D. Rann)—

Tandanya, National Aboriginal Cultural Institute—Report 2002-03

By the Treasurer (Hon. K.O. Foley)—

Electricity Industry Superannuation Scheme—Report 2002-03

By the Minister for Police (Hon. K.O. Foley)—

Australian Crime Commission—Report 2002-03

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

Summary Offences Act 1953—
Section 83B—Dangerous Area Declarations
Section 74B—Road Block Establishment Authorisations
Regulations under the following Act—
Victims of Crime—Victims Compensation
Rules of Court—
Magistrates Court—Scale of Costs

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

Regulations under the following Acts—
Liquor Licensing—Goolwa
Travel Agents—Travel Agent Exemptions

By the Minister for Health (Hon. L. Stevens)—

Gene Technology Activities in 2003—South Australian Government Report
Medical Board of South Australia—Report 2002-03
North Western Adelaide Health Service—Report 2002-03

By the Minister for Transport (Hon. P.L. White)—

Regulations under the following Acts—
Motor Vehicles—Provisional Licence Exemption

By the Minister for Urban Development and Planning (Hon. P.L. White)—

Development Act—Development Plan Amendment Reports—Interim Operation—
City of Burnside—Local Heritage Places Number 2 Plan Amendment
City of Campbelltown—Tranmere & Poets Corner—Character Policy Areas Plan Amendment
City of Unley Development Plan—Hillsley Avenue, Everard Park Plan Amendment
Hills Face Zone (Interim Operation) Plan Amendment
Port Pirie Regional Council—Heritage Plan Amendment
Town of Gawler—Residential 1 Zone—Orderly Development Plan Amendment

By the Minister for Industrial Relations (Hon. M.J. Wright)—

Regulations under the following Acts—
Industrial and Employee Relations—Chief Executive
Workers Rehabilitation and Compensation—Scales of Charges

By the Minister for Agriculture, Food and Fisheries (Hon. R.J. McEwen)—

Citrus Board of South Australia—Report 2002-03

CHILD DEATH AND SERIOUS INJURY REVIEW COMMITTEE

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

Leave granted.

The Hon. J.W. WEATHERILL: The abuse of children in our society is an abhorrent crime. We must identify and pursue any person who deliberately offends against vulnerable children and we must ensure that we have a child protection system that provides the best possible outcomes for each child. Yet, even with the very best of systems and interventions, there will still be children who suffer at the hands of adults. However, it is vital that when tragedies occur we examine the circumstances and consider whether we could have served our individual children better. That is why I am today announcing that the government will establish a Child Death and Serious Injury Review Committee.

Members interjecting:

The Hon. J.W. WEATHERILL: They say, 'What about the Layton report?' It is a recommendation, sir. This committee will be charged with examining cases of death and serious injuries of children and young people under 18 years, where there are concerns of abuse, violence or neglect. It will examine in detail the history of any child protection concerns relating to a particular case and will consider how effective our service responses were. The creation of this committee is the next plank in our government's child protection reform agenda. While similar committees have been established in other states, our committee will have a broader focus because it will also look at cases where children are seriously injured and will not be constrained as to how far back in time it can go to examine the circumstances.

The Child Death and Serious Injury Review Committee will report to me as lead minister on child protection as well as to the Coroner. The Coroner will also have the opportunity to seek advice and information from the committee on individual cases or practices. The committee will have a membership including a legal professional, a paediatrician, a forensic examiner, a child protection expert, a representative of SAPOL, an expert in child death research and experts in quality assurance and systems. The committee will also have the power to bring in experts in other relevant fields for particular inquiries. These investigations will allow us to unravel the way in which any processes, practices or policies

of government and government-funded agencies intervened or failed to intervene for a particular child, and how this affected the outcomes for that child.

It will allow us to identify whether the system operated appropriately or whether there were any systems failures for particular children. It will establish whether there are lessons to be learned regarding agency practice; whether agencies could be better integrated to safeguard children; and will recommend practical improvements for the future. If the committee identifies any potential misconduct or inappropriate individual practice, this will be referred to the chief executive of the relevant agency for consideration. In addition, the committee's secretariat will collect data on a topic that you, sir, are interested in, on all deaths and serious injuries of children under 18 years, to inform future prevention strategies by identifying trends and standardising data.

Members of this house may have seen the reports of the death last week of an infant in Mount Gambier. This death and two others in Victor Harbor and Port Lincoln are currently the subject of criminal investigations. I was deeply saddened by these tragedies, as I am sure that all members of this house were. We must strive to ensure that we protect our vulnerable children wherever possible. The new Child Death and Serious Injury Review Committee is just one of the measures that will help us to do this.

CENSURE MOTION

The SPEAKER: Order! I point out to the house that I have received a letter from the Leader of the Opposition, the substance of which is to advise me of his wish on behalf of the opposition to move a motion forthwith, which I will call on him shortly to do. It is neither an urgency motion nor a motion of no confidence; and, accordingly, whilst courteous, it was not constitutionally necessary under the standing orders. Notwithstanding any of that, I call on the Leader of the Opposition.

STANDING ORDERS SUSPENSION

The Hon. R.G. KERIN (Leader of the Opposition): I move:

That standing orders be so far suspended as to enable me to move a motion without notice forthwith, and that the time for debate be one hour in lieu of question time.

Motion carried.

MINISTER FOR HEALTH

The Hon. R.G. KERIN (Leader of the Opposition): I move:

That the house severely censures the Minister for Health for failing to issue public warnings of serious safety issues in public hospitals, failing immediately to provide the board of the Mount Gambier Hospital with the report which highlighted serious risks to patient safety and inappropriate management of public hospitals which has adversely affected patient treatment.

This is a serious motion, which seeks to censure the minister and send a message to her that it is not good enough—

The Hon. M.J. Atkinson interjecting:

The Hon. R.G. KERIN: Well, I think the Attorney-General ought to take this more seriously. Our focus today is the absolute concern in the community about the lack of timely response from this minister and this government to circumstances that we have observed over the last couple of months. The government has been in possession of very serious information which has not been acted on. What we have seen has become the culture of this government, particularly this minister. What happens is that upon receiving serious advice that advice has been sat on. Only as a result of FOI applications or other media interest does the minister act, or when it becomes obvious that the public will find out, anyway, and that is absolutely not good enough.

Yesterday, as a result of what we have seen over the last several weeks, I asked the minister in question time whether or not she was aware of any other information of unsafe circumstances within our health system. The minister was extremely hesitant. Indeed, she looked quite worried about the question. The minister refused to answer that question. She looked at me several times, begging me, almost saying to me, 'Which unsafe situation do you know about?'

She was begging me for an answer, and not until this morning, when we picked up *The Advertiser*, did we see what she was hiding yesterday. We saw in *The Advertiser* this morning a situation at the Women's and Children's Hospital about which the minister should have told South Australia some time ago. I think that when the minister responds today she should tell the house and South Australia whether she is aware of any others. Was her hesitancy yesterday about the fact that she was not sure which one we knew about, or are there others in her possession about which she has not told either this house or the South Australian public?

South Australia deserves to hear that answer from the minister today. This situation is very typical of what we have seen with this government. It is about a response that is based only on what is the best headline and what is media sensitive, and releasing information only when you absolutely have to. It is about being reactive rather than proactive. It is about the headline and addressing a difficult issue only when it is about to break. That is absolutely no way in which to run a health system. It is no way to respond when you know about unsafe circumstances within our health system.

The deputy leader will go into greater detail, but I would like quickly to summarise some of the instances that have occurred over the last month or two that create great concern with me. Yesterday, in answer to a question, the minister avoided telling this house what she refused to tell South Australia, that is, that seven babies at the Women's and Children's Hospital were carrying serratia. That is a bug which saw two babies die in Melbourne recently. The outbreak was discovered at the start of this month, and the only reason why that information was released to the South Australian public was that, after the question asked in this house yesterday, the minister was scared that it was about to break; she was not sure whether we knew about that one or not. So, thank goodness we asked the question. We did not get the answer in here, but the media machine within the government decided that after that question yesterday it was about time that it got that information out there.

Regarding the Flinders Medical Centre, we have minutes which date back about 15 months and which talk about conditions in their emergency department being unsafe. By the end of the year, conditions were grossly unsafe. During that period of time the minister did very little to address that, and it is really only in the last few days that we have seen the financial response to what should have been done last year when the minister knew that it was unsafe. So, what happened? It was not when she became aware of the situation: it was only when the deputy leader came into possession of the minutes, after they were FOI'd by the Hon. Angus Redford in another place, that the minister decided that she

had better come out and say something about it. It was only when there was an FOI—15 months after she was first aware of that situation.

Regarding Mount Gambier Hospital, the general handling of the situation there has been abysmal, but today I want to concentrate on the way in which the minister responded to a report that she actually called for. She had two interstate doctors do a report for her because she wanted to get to the bottom of it. On 15 March those two doctors sent their report to the minister, and with that report was a letter to the minister pointing out that not only were the circumstances at Mount Gambier Hospital unsafe but also that it was absolutely urgent that something be done about it. The minister took from 15 March until 5 May—

The Hon. Dean Brown: Seven weeks!

The Hon. R.G. KERIN: —to alert the board of the hospital to what she actually had: that is, seven weeks after being told it was unsafe and that dire consequences were the result of what was occurring down there. The minister decided that she did not have to respond in a timely fashion. That is certainly not good enough for the people of Mount Gambier. That report was absolutely damning. What we saw from the minister was a three-page press release which, quite frankly, just tried to wallpaper over everything.

The major point made by the reviewers was that that hospital lacked resources, but in the three-page report that we saw from the minister not one mention was made of the lack of resources that was raised time and again in that report. Yet again, it was only when the minister knew that under FOI the opposition were about to get that report that she came half-clean with a three-page press release. Not good enough!

Regarding the Queen Elizabeth Hospital birthing unit, the minister claimed that she knew about the closure there only two weeks ago. Give us a break! There were five resignations there some time ago, and it became absolutely obvious that the hospital was in terrible trouble trying to keep that unit open. The minister did not feel that that was enough of a problem to tell the ladies who were about to have babies and who were booked in. She sat on it for a long time before they made that decision. And to rub salt into the wound, yesterday when she was asked about the closure, the minister said that there was no closure. Well, that is a bit cute. For the women down there who were about to have babies—whether it is a temporary closure, a long-term closure or a suspension of services—that is a closure: it is an absolute closure. It was very cute of the minister yesterday to get up and say that there is no closure and then sit down. I think that those women deserved a lot more of an explanation, not only that it was closing but also what the circumstances were that brought that about. And I do not think we would have known about that one as quickly either, except that the minister was actually on holidays and, much to the surprise of quite a few people within the government, the Treasurer thought it was only fair that he come out and warn people of what was happening down there. I thank the Treasurer for that. It sent people into a bit of a spin, though, because I do not think the minister's office was aware that that was going to happen.

The latest one is the Women's and Children's Hospital's paediatric intensive care unit. I am told that $20 million out of capital works is going to prop up the recurrent expenditure within the department. That is just bad luck for some of the public works program in our hospital system. I think that is totally unfair and, again, there has been no public announcement of that. The hospitals found out—$20 million out of capital to prop up the problem they have at Flinders; to media manage the problem they have at Flinders. Instead of going to the bulging Treasury coffers, the minister has got rid of some of the capital works. I think the minister should tell us today which other ones there are. The paediatric intensive care unit of the Women's and Children's Hospital is an urgent capital work. It is about occupational health and safety, and it is about better services for the mothers and the children of this state. I think that is a disgrace, and the minister should tell us straight away. This morning we saw it bungled. At 7 o'clock, 'We will investigate.' By 7.45 it was, 'No-one will find out until the budget comes down.' Unfortunately, the hospital has already been told. Can you tell us today which other hospitals, which other communities, will miss out?

In asking members to support my censure motion, I urge them to join me in saying that we want it to be better. We want better management, and we definitely want better health outcomes. We also want our health system run in a way which is responsive to demand and which is highly responsive to adverse advice about safety issues, not a system that is just run on this government's media priorities. I ask members to support the motion.

The Hon. L. STEVENS (Minister for Health): I reject this motion completely. This government has made health a priority, both in terms of spending and reforming a system that was left in disarray by the former minister. Members know it was the former government that closed over 400 beds under the stewardship of the member for Finniss when he was premier.

Members interjecting:

The SPEAKER: Order! The member for Mawson may have offered assistance to the Leader of the Opposition (not that I saw him take it up), but the honourable member will hear the minister in silence, as did the government members, who showed courtesy to the leader. And that goes for all other honourable members.

The Hon. L. STEVENS: It was the former government that closed over 400 beds under the stewardship of the member for Finniss when he was premier and then minister for human services. It was the former government that embarked on the privatisation of our public hospitals and neglected our mental health services. I would like to remind the house of some of what the government found out about the health system when it came to office. We found accumulated hospital debts of $61 million at 30 June 2001, and a forecast blow-out of another $11 million.

Mr BRINDAL: Sir, I rise on a point of order. This is a motion of censure with respect to the current minister. The substance of the debate relates to the actions of this government and the current minister. I put to you that this part of the debate by the minister is irrelevant and is not in accordance with the motion before the house.

The SPEAKER: The honourable member is mistaken. There is no point of order. The minister is perfectly entitled to refer to such matters as enable her to refute the allegations contained in both the statement of the motion and the substance of the debate that has so far been provided.

The Hon. L. STEVENS: We found an EBA agreement with our nurses to agree by March 2002 on a new system to replace Exelcare, the nurse management system. The new system did not exist, and it was not funded. We found that DHS had been technically in overdraft. The former minister had allowed his department's cash reserves to fall by $49.5 million—from $86.2 million at 30 June 1998 to

$36.7 million at 30 June 2001. We found that the claim before the election that the member for Finniss had negotiated $5 million from the commonwealth for after-hours clinics at Noarlunga and in the northern suburbs was denied by the federal minister and did not exist. We found that there was no funding in the budget to complete the final stages of the reconstruction of our three major metropolitan hospitals, now funded by this government at a cost of $270 million. And we found that we were facing a chronic nurse shortage that would limit our capacity to open extra hospital beds and provide the services so badly needed in South Australia.

When this government came to office, our public health system had been run into the ground. This government has committed more funding than ever before to providing services in our public health system. We have provided extra money for elective surgery, $9.5 million in our first budget and another $5 million in March this year; extra money for dental treatment, $8 million over four years; extra money for mental health, $5 million over four years for adult mental health care; $2.25 million for country pilots; $2 million over four years for programs targeted at children; and $51.8 million over four years for an extra 100 hospital beds.

In our second budget, we allocated even more; the extra money provided for 2003-04 was $21 million. New initiatives included $30 million for extra intensive care services; $26.8 million for extra nursing; an extra $16.3 million to maintain and replace biomedical equipment in our hospitals; $9.6 million for new and safer blood products; $5.2 million for kidney dialysis services to meet ongoing demand; and a boost of a further $4 million for mental health initiatives. There was an extra $2 million this year for the Murray Bridge Hospital redevelopment; and $2 million to support work at the Queen Elizabeth Hospital whilst we were undertaking the re-reconstruction the former minister failed to fund.

We have conducted the most comprehensive review of health for 30 years and we have developed a 20-year plan to address the failings of the previous government, which saw our public hospitals as a savings target and something to privatise. On coming to government, we were faced with not only a health system which was on its knees but also a system without a plan. One of the first acts of the minister and the government was to establish the Generational Health Review. This single act galvanised all providers and stakeholders; even the media and the general public got right behind this review. It was not only time; it was absolutely imperative. We had to have a plan of how to fix today's problems and also to prepare for tomorrow's issues.

One of Menadue's chief findings was highly critical of the way in which this system was governed and managed. Menadue stated in his final report, for all to see, what a mess the former minister and the former government had left us. He said:

> Poor governance is the crunch issue where, in my view, good public policy and sectional interests collide. It results in duplication and fragmentation of care.

He also said:

> Many clinicians also told us that the present governance arrangements result in serious concerns about quality and standards.

Quality and standards go to the heart of patient care. What did the previous minister do about the way in which the health system was led? Nothing. Menadue did not make any new discoveries here: these problems were well known by anyone working in the system. Clearly, the former minister did not listen and did not care.

So, what have we done? Since receiving John Menadue's report, we have acted quickly to institute new governance arrangements, particularly in the metropolitan area. We have also established a clinical senate, as recommended by John Menadue. This brings clinicians right to the heart of decision making about high-quality care. This senate will lead to greater clinical leadership by the people best qualified to lead: the clinicians themselves. All these initiatives will be done at a time when the federal government has ripped out $75 million from the Australian health care agreement, and that was a move the opposition supported. For the opposition to claim inappropriate management in the face of their record and their continuing behaviour is nonsense.

Overcrowding and its implications at the Flinders Medical Centre emergency department date back to at least 1992, as the workload has progressively increased to over 50 000 annual attendances. The Flinders Medical Centre takes acute cases from the emergency units at both the Noarlunga Health Service and the Repat Hospital, and this focuses the acute care caseload from the southern region at the Flinders Medical Centre. The ageing population, a lack of hospital avoidance programs, the shortage of nursing accommodation and the shortage of GPs in the south all contribute. There is also increasing acuity of those presenting. Last November, for example, out of 4 175 attendances, 1 695 people were admitted to that hospital.

Because of concerns about the Emergency Department workload, the Flinders Medical Centre Director of Clinical Governance, Professor David Ben-Tovim, undertook a systematic analysis of the Emergency Department at the beginning of 2003. As a result of that analysis, the Flinders Medical Centre board progressively initiated a number of improvements. However, because overcrowding continued in Emergency, I sought further advice in July 2003 and the hospital board engaged Professor Marcus Kennedy, Director of Emergency Services at the Royal Melbourne Hospital, to provide an independent opinion. I also instructed that the Flinders Medical Centre open the beds and do whatever was necessary to maintain safety. I want to put on the record what Kennedy said about safety. He said:

> It is intuitive to state that an ED [emergency department] which is overcrowded (and therefore by definition under resourced) will be less safe than one which is not.

However, having said that overcrowding was unsafe, Professor Kennedy—

Mr HANNA: On a point of order Mr Speaker, I am very carefully trying to listen to the minister, especially as she addresses the Flinders Medical Centre issue, and with the Minister for Agriculture and the member for Bright trading insults across the chamber I cannot hear.

The SPEAKER: The honourable member for Mitchell raises a valid point of order. Honourable members who wish to exchange pleasantries should seek closer comfort with the person to whom they address their remarks, rather than interrupting the ability of other honourable members to hear the debate. The honourable the Minister for Health.

The Hon. L. STEVENS: I will just repeat that last part before I was stopped and it is in relation to what Professor Kennedy said in his report. Having said that overcrowding was unsafe, Professor Kennedy went on to say:

> It is, however, important to note that trends identified and the performance of the Flinders Medical Centre Emergency Department in this regard do not appreciably differ from local or national trends.

To put this matter in some context, Professor Kennedy also said that interstate benchmarking in fact suggests all of South

Australian emergency department death rates to be considerably lower than interstate rates by a factor of up to threefold.

On 22 January 2004 I received advice from the Chairman of the board of the Flinders Medical Centre, setting out further action to be taken on advice of Professor Kennedy to meet overcrowding and potential safety issues. As a result of the work of Professor David Ben-Tovim and Professor Kennedy, changes that have been implemented include: staffing levels increased in the Emergency Department; the Flinders Medical Centre introducing bed management practices to improve the flow of patients through the hospital; an ongoing 'Building Capacity' initiative has been established; a new model of care providing intensive rehabilitation and support to stroke patients and acutely ill elderly patients has been implemented; the 37 bed 'City Views' step down facility was opened in August last year as a transitional care facility to free up bed capacity; a recruitment drive was initiated to increase the number of emergency department doctors; the amount of time that there are two ED consultants on duty has been maximised; additional general medical consultants have been recruited to strengthen senior medical cover across the hospital; and up to 25 extra beds were opened at times of peak demand.

Building work was initiated to convert the old intensive care-critical care unit area into space for additional bed stock. A workshop was run with 67 senior clinicians to explore and action further strategies, and the hospital worked in partnership with United Kingdom National Health Service to redesign patient flow via the ED works initiative. Of course, that was recently highlighted in *The Australian* as a national initiative. As a result of these measures, waiting times have been cut by 20 per cent in that emergency department. On top of this, we have just announced that the Flinders Medical Centre is to receive an extra $30 million over the next four years to further improve patient care in, and the performance of, its emergency department. This funding commitment will be used to employ more staff, open more beds and increase the physical capacity of the state's busiest emergency department. This is a government committed to safety.

The review of regional relationships is also paramount, and the recent appointment of the Southern Area Health Service Board and the imminent appointment of a regional general manager will facilitate this process. The Flinders Medical Centre and other hospitals have been directed to ensure the quality and safety of services at all times. Professor Baggoley, Director of Emergency Services at the Royal Adelaide Hospital and adviser on emergency services to my department, has reviewed over 30 emergency departments over the last decade. He also provides advice to the government, and Professor Baggoley has advised me that the recommendations being implemented are sound.

I now want to address the issues raised in relation to the Mount Gambier Hospital. When comments were made to the parliamentary committee in December 2003 about safety and quality issues at Mount Gambier, I initiated an independent review. Despite the fact that I had received no communication about these matters from the board, I took immediate action. I immediately put Professor Brendan Kearney, Chair of the state's Quality and Safety Council and a member of the National Quality and Safety Council, on the hospital's board.

To shake up the leadership, I appointed respected local businessman Peter Whitehead as the new board chair together with other local leaders. The report was received by Professor Brendan Kearney, sitting on the board of the Mount Gambier Hospital in mid-March, and discussed with my CEO on 19 March. Professor Kearney immediately indicated his response to the report, that the important issues raised by Stokes and Woolf were already being actioned. Professor Kearney's advice was that many of these issues were being dealt with before I commissioned this report in December last year. Professor Kearney's advice confirmed that my department and the hospital had already dealt with the following issues, and in his opinion the hospital was accredited and was safe for the work being undertaken. He stated that the hospital was accredited in November 2003. The safety and quality framework was presented to the staff on 16 January 2004, to the board on 17 January 2004, and to the medical staff on Monday 19 January 2004. The committee structure for safety and quality and medical staff involvement was commenced in January 2004, and was being implemented fully. A full complement of senior medical officers had been in place since late 2003, and there has been significant uptake in use of these high-quality services by the Mount Gambier community. The Mount Gambier and District Health Service had implemented an incident monitoring system that catalogued adverse event reporting and sentinel event reporting. Mount Gambier was well advanced in fully implementing the clinical risk patient safety management framework. Negotiations for appointment of additional obstetricians, anaesthetists, and surgeons had commenced by December 2003 and concluded with staff expected to be on site from July 2004.

Professor Kearney assured me that all of these measures have been put in train by the new board of the Mount Gambier and District Health Service prior to receiving the Stokes/Woolf Report. The report made recommendations in five key areas: governance and administration, staffing, the role of the hospital, hospital boards and funding. He indicated that a full briefing was being prepared by the Department of Human Services. Unlike the four reports on the Mount Gambier Hospital conducted when the deputy leader was minister, including a medical board investigation, this one is being actioned.

I was informed that arrangements were well advanced to address the staffing and clinical governance issues through service agreements with the two major metropolitan teaching hospitals, the Queen Elizabeth Hospital and the Royal Adelaide Hospital. This includes an agreement that has been negotiated between the Mount Gambier and Districts Health Service, the South-East Regional Health Service and the Queen Elizabeth Hospital for senior surgeons from Adelaide to operate in Mount Gambier and oversee a comprehensive roster of teaching registrars, salaried medical officers and students at the hospital. This is a groundbreaking move, long overdue, and the subject of reviews I mentioned earlier that were undertaken during the deputy leader's watch. The former minister had four years to action this and achieved nothing.

This issue arose again in the Medical Board investigation of August 2001, and still nothing was done. Clinical leadership in the hospital has been an issue for several years and a director of medical services has been appointed. These very issues were highlighted in previous reports to the former minister. Again those things were left for me to deal with. Mount Gambier will also soon have a second resident obstetrician gynaecologist. I have been informed that negotiations are under way for a third specialist in the area.

The Mount Gambier Hospital board and the regional board have informed me that much work has occurred to establish the clinical governance committees, including the drug

advisory committee, the mortality review committee, the clinical advisory committee and the theatre management committee, and that all these are under way. The infection control committee will be established prior to the end of this financial year. The clinical incident review subcommittee of the clinical advisory committee has been structured to specifically review patient safety incidents.

Other initiatives that are under way include cooperative clinical planning processes (in conjunction with clinicians) to identify medical work force needs, including new structures for cooperation with local GPs. I remind the house that when I took over as minister GPs had virtually abandoned the hospital. Thank you, member for Finniss! A regional clinical service planning process is also under way, and again neither of these was actioned by the previous minister.

A zero tolerance policy regarding bullying and harassment in the workplace has been instituted and a regional clinical senate established. I remind the house that $1.5 million of extra funding was applied to the Mount Gambier Hospital above its allocation of funds, and of this about $600 000 was specifically targeted to the reform measures which we already knew needed to be done in October last year and which were being actioned—$600 000 of that extra money was targeted directly at supporting those reform initiatives.

The review also says that the board structures put in place and so strongly supported by the deputy leader (the previous minister) are cumbersome and over bureaucratic. As I said when the Generational Health Review was released, there will be no forced changes to country boards' local governance. These matters will be discussed in conjunction with the boards and the local communities, and we will work through the issues that the report highlighted in relation to the current governance structure.

We are finally seeing progress in the South-East, and it will take time to implement all the changes that are necessary. Certainly, a good start has been made. I would say in relation to Mount Gambier Hospital that this would be the most positive future that that hospital is embarking upon for probably a decade. In relation to Mount Gambier, I have asked Professor Kearney to oversee all the changes that have been recommended in the report and to formally report back again to me with Professor Stokes by 31 August this year.

The leader also notes some issues in relation to the Women's and Children's Hospital, and cases of serratia in the nursery of that hospital. I would like to put this information on the record for the house. Serratia is a well-known brand negative bacterium that resides in water-moist areas. It appears in intensive care settings from time to time. The last outbreak here in South Australia was four or five years ago. I wonder whether we heard about that at the time from the former minister or former government. I do not recall it, even though I was the shadow minister. This bacterium is not notifiable, and the hospital informed my office of the matters relating to it last night. They are being taken very seriously.

One of these babies was seriously ill with septicaemia, a blood-borne infection. The other six had been colonised. They say that the index case, the first case, has fully recovered and that three of the other six have been discharged. There have been no new cases for 11 days, so we believe that the outbreak has been contained. I assure the house that every effort in relation to that matter has been taken by the Women's and Children's Hospital. As I said, it is not a notifiable disease. My office was informed by the hospital about the matter last night, and I am giving this information to the house on the public record as soon as I am able.

I would like to conclude by saying that this government has made health a priority. It has got down to systematically addressing the legacies of the former government and reforming and rebuilding the health system of South Australia for the future.

The Hon. DEAN BROWN (Deputy Leader of the Opposition): We have seen the extent to which the government has left its minister to hang out to dry by herself. She has just used 27 minutes of their 30 minutes. None of them were, obviously, prepared to stand up and defend her. Which Minister for Health has produced the longest waiting lists this state has ever seen? This minister. Which Minister for Health has increased the waiting lists for those who have waited for elective surgery by more than 30 per cent in the last year? This minister. Which minister sat on her hands for 12 months when told that the emergency department at the Flinders Medical Centre was unsafe, increasingly unsafe and grossly unsafe? This minister. These are just some of the issues.

Which minister went down to the Queen Elizabeth Hospital on 18 March last year and said that that hospital's birthing unit was safe? This minister. Which minister dreamt up this glorious scheme of a winter bed strategy and said that they would close 160 beds because the pressure would be on and, at the same time, ordered the hospitals to cancel 25 per cent of the surgery? This minister.

Let us look at the motion. The motion censures the minister because the minister sat for seven weeks on a damning report on safety at the Mount Gambier Hospital. I produce the letter written by Professor Brian Stokes, and I quote two paragraphs from it. This letter, sent to the minister on 15 March, states:

> As you will note from the report and recommendations, we have found serious deficiencies in the provision of some services with particular reference to safety and quality.

The letter further states:

> We consider these deficiencies are of such a serious nature with potential significant patient risk that urgent correction is required.

What did the minister do? The minister sat on that report for seven weeks before finally sending it on to the Mount Gambier Hospital, because I have a copy of her letter—

The SPEAKER: Order! The Deputy Premier and the Minister for Infrastructure will acknowledge the chair when crossing the chamber, and not have a conversation in the middle of the floor to suit themselves in complete disrespect of the speaker on his feet and the chair itself.

The Hon. DEAN BROWN: I have a copy of the letter the minister sent back to the hospital dated 5 May, some seven weeks later. That letter does not even acknowledge the serious situation in terms of the risks to patients at the Mount Gambier Hospital. The minister sat on that report for seven weeks before bothering to send it to the board of the Mount Gambier Hospital. Any minister who has such little regard for public and patient safety, as this minister did, deserves to be censured by this parliament.

I come to the Flinders Medical Centre. In February-March last year, as the minister herself has acknowledged, Professor Ben Tobin carried out a review of safety in the emergency department of the Flinders Medical Centre. That report found that the emergency department was unsafe and increasingly unsafe. That was in February-March of last year. Yesterday in question time, the minister said that she was not told until July of last year, some five to six months later. Now, is it that the Flinders Medical Centre is not talking to the minister, or

does the fault lay with the minister's department, which apparently, we are told, is not talking to the minister? But for five to six months no-one, according to what she said yesterday, bothered to tell the minister that the emergency department was unsafe, and increasingly unsafe, to the point that, by the end of the year (after the minister had been told), outside consultants, together with Dr Kennedy, said that it was grossly unsafe indeed.

In fact, it is interesting to see that, until I did an FOI on the board minutes of the Flinders Medical Centre, nothing whatsoever was done by the minister. It is interesting. I will just read directly from the minutes of the Flinders Medical Centre as of 3 February this year on the events of the previous 12 months which, I think, highlight for themselves the disastrous situation that existed. The minutes state:

> Early 2003 CEO asks the Director of Clinical Governance to undertake systematic review and advise on patient safety. Review concluded that there is clear evidence that FMC is becoming increasingly unsafe. Outcome of review shared with board, minister and senior DHS officers.

Although it would appear that it took almost six months for the minister to be told of this unsafe circumstance. So it goes on. Then, of course, it commissioned the Kennedy report which indicates, according to the board minutes, that the FMC is grossly unsafe. We have a second example—as revealed in the last three weeks—of this minister's sitting there, knowing that her public hospital is grossly unsafe. Where was the public warning? Was any public warning issued in the 12 months? None whatsoever! Was any public warning issued to the people of Mount Gambier? None whatsoever! This minister is willing to hide. Where is the open, accountable and honest government we were promised by this government? There is absolutely none whatsoever. I have also FOI'd the board minutes of the Repatriation General Hospital, the Queen Elizabeth Hospital and the Lyell McEwin Hospital, and I will just highlight some of the quotes from those minutes. Board minutes from the Repatriation General Hospital of 29 January 2003 show that there was a ministerial direction to cancel elective surgery. Let me read another quote from these minutes, this one from 24 September last year, as follows:

> There has been a directive from the Department of Human Services to decrease elective surgery by 25 per cent. . . Some days RGH is cancelling up to 60 per cent of elective procedures.

That is, 60 per cent of elective procedures had to be cancelled because of what this government has done.

We turn to the minutes of the North Western Adelaide Health Service Board where they state, on 21 November last year:

> Whole of health system. Mr D. Swan stated this is not good and that all hospitals are struggling. . . overall debt of $32 million is forecast for 2003-04.

In other words, this minister has not only produced the longest waiting lists this state has ever seen, but she has also produced the biggest blow-out in a hospital deficit ever recorded in one year.

There are other quotes here as well including how, in November 2002, as a result of restrictions being put on nursing agency staff, 50 beds at the hospital had to be closed. There is another one dated 26 September 2003 that says the following:

> Mr Swan (CEO) noted. . . that the Queen Elizabeth Hospital is trying to undertake category one surgery (life-threatening surgery), but are unable to undertake many other procedures due to the lack of beds and staff.

That was late last year, Mr Speaker. One can go on point after point. Another quote from the hospital in March last year is as follows:

> Total time in the Emergency Department following decision to admit averaging 15 hours.

Then the hospital itself says, 'Very poor.' What we have had with this minister is an absolute disastrous situation in terms of, first, incompetence in managing the hospitals. The fact is that she has mismanaged the hospitals and produced the longest waiting lists for elective surgery that the state has ever seen, with more people having to wait more than 12 months than ever recorded previously. We have seen the extent to which the minister has been negligent in not warning the public about very significant safety issues over a 12 month period at the Flinders Medical Centre.

The minister claimed that she had secured the birthing unit at the Queen Elizabeth Hospital on 18 March last year, but then what happened? In about a year we find that five obstetricians leave. But she does not come out and announce that—it is like having a jumbo plane with all the pilots leaving the plane, but she does not announce that the plane is not going to fly. She holds for seven weeks and then decides to go on leave and tell the hospital to release this detail to the public.

It is appalling that the minister did not have the gall to stand there and tell the women of the western suburbs who were expecting babies that she had sat on the information for seven weeks and she was now only giving them two weeks' warning. We were promised honest and accountable government: we were promised under the pledge 'better hospitals and more beds', and it was this minister who went out and closed 160 of those beds. The care, the pressures and the safety in our hospitals has deteriorated for two years under this minister. But, worst of all, the minister has not had the integrity to come out and tell the public that that was the case. She deserves to be censured by this house. I support the motion.

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

> That standing orders be further suspended to allow an additional 20 minutes' debate in this resolution to enable the crossbenchers to take part.

Motion carried.

Mr HANNA (Mitchell): I use this opportunity of a censure motion against the Minister for Health to outline some of the concerns in my community about the health care system under the Labor government. There is a lot of community disquiet about health care services and, in particular, I have heard many stories over the last two years in relation to the Flinders Medical Centre that cause me disquiet. Generally, they are either such large, systemic problems that can only be solved by—

The SPEAKER: Order! The cameramen in the gallery should know that they are, on their agreement and commitment, not permitted to film at random in the chamber. As individuals, and as representatives of their respective agencies, they will be removed unless they otherwise comply with that. The member for Mitchell.

Mr HANNA: Generally, those complaints have been attributable either to systemic problems which can only be remedied by state government budgetary measures, or they have been problems which can be resolved by negotiation with the hospital directly. However, there are a number of

concerns, and many of those concerns have already been placed in the public arena—for example, the Kennedy report (which has already been referred to today), which found the Flinders emergency department to be 'grossly unsafe'. I realise that the minister has referred to this report, and in a moment I will raise some questions about her response. I am told that the Flinders Medical Centre Board minutes of 7 October state:

> It is inappropriate for patients who have come from major cancer surgery in a sterile operating theatre to then be put in a bed alongside someone with respiratory infections from off the street.

I cite that as an example of patient safety being under threat. I am told that the Flinders Medical Centre Board minutes of 2 December state:

> Further information that I have obtained now shows that the average period for urgent surgery at Flinders is 39 days, while the average for the whole state is 14 days. For semi-urgent surgery the period at Flinders is 111 days, compared to a state average of 45 days.

I would like a response as to how that statement matches the minister's assertion that the figures are comparable to other local and interstate figures for waiting time for surgery (at least, that is how I understood her response in relation to the Kennedy report findings). I am told that the Flinders Medical Centre Board minutes of September last year state:

> There are clear indicators of a decrease in safety of service. The current average time spent in the emergency department by each patient is 5.7 hours. This needs to be reduced.

In relation to that figure being an average time, I note that it probably means, given the triage operation that applies, that some people probably wait 30 minutes because they have a very serious problem. In fact, I have heard of people waiting 10, 11 or 12 hours for less serious problems.

Other issues which have been in the public arena and which have caused concern include the threatened closure of the neonatal facility at Flinders at the beginning of 2003. It was only due to a very strong, passionate community response to that threatened closure and the accompanying publicity that the decision was apparently reversed by the government to allow continuation of that facility.

There are a number of questions in brief that I need to be addressed in this debate to enable me to decide whether censure is warranted. For one thing, I am told that last winter patients were kept on trolley beds in the emergency department for up to four days, and I ask whether the minister and/or the government can rule out such a sorry state of affairs recurring this coming winter. Last September, there was a report that the intensive care unit at Flinders Medical Centre was overflowing with patients, and I ask for the government's assurance that that will not be happening again in the foreseeable future.

I refer to Labor's platform for better hospitals, whereby the Labor Party, myself included, aimed at the last election to ensure that a public hospital bed and the best possible treatment would be provided when it was needed. In that document some promises were made, and I ask for a report, at this point, on whether these following promises have been kept:

> A Rann government will provide an extra $16.5 million each year to fund up to 76 acute beds. . .to improve the timeliness of elective surgery and reduce the number of surgery cancellations as a result of bed shortages.

Another promise was as follows:

> Labor will provide an extra $2.35 million. . .each year to open up to 24 emergency extended care beds to ease the pressure on our public hospital emergency departments.

In relation to the general promise that 'Labor will act on bed shortages and overcrowded emergency departments,' I accept that the minister has gone some way to address that point. As I recall the minister's response, a few of the measures she outlined could do with further explanation. As I understand it, the minister gave advice to the Flinders Medical Centre Board to do whatever was necessary to open beds and maintain patient safety. I ask for the details of when and how that advice was given. The minister would appreciate that, having received a fairly significant volume of information in the debate, it is difficult to assimilate it all at once. Nonetheless, I ask for those details.

The minister also said that there was a plan or a proposal to have two consultants on duty at the Flinders Medical Centre's emergency department. I ask whether that has been implemented and for what periods during the week it applies or is meant to apply. The minister referred to a recruitment drive for additional consultants in the Flinders Medical Centre's emergency department. I ask what are the results in respect of that recruitment drive—whether it has in fact led to an additional pool of consultants.

I understood the minister to say that waiting times were being cut by 20 per cent, but I am not sure whether that applies to the Flinders Medical Centre or across the board, and I ask for clarification on that matter. The minister also referred to $30 million being appropriated for additional staff and beds. Again, I ask when that will come into effect. When will we actually see more beds and additional staff at the Flinders Medical Centre as a result of that funding allocation? I realise that in this debate the minister herself has spoken, and therefore I ask for another minister, if need be, according to the rules of this place, whether it be the Treasurer or the Premier, to respond to the questions I have, because they represent sincere doubts about the management of our public health service and, in particular, Flinders Medical Centre.

The Hon. R.B. SUCH (Fisher): I would like to make a brief contribution, looking first at the specifics of the censure motion. I cannot see how a minister for health would be well advised to issue public warnings of serious safety issues in public hospitals. I mean—

Honourable members: What?

The Hon. R.B. SUCH: What an alarmist thing to do! A health minister gets out and says, 'Don't come to our hospitals, it's too dangerous.' It would be ludicrous for a health minister to say, 'Don't come to our hospitals, they're not safe.' The issue is whether or not the minister does something to address them.

Members interjecting:

The Hon. R.B. SUCH: Well, the censure motion says, 'failing to issue public warnings of serious safety issues'. Should we put a sign up in front of the hospital: 'Do not enter, too dangerous.' That suggestion lacks credibility.

Members interjecting:

The Hon. R.B. SUCH: It does! The question is whether the minister addresses the issues, and I draw a parallel. Health has always been very much politicised and we have to ask why the Minister for Health is involved in operational matters—no pun intended—yet the Minister for Police says, 'That is an operational matter.' Health has been politicised because it is emotive, it is about our grandparents, our family, and because our community has rising expectations. We

could spend all the budget on health and not make everyone happy. There would be people who wanted their operation yesterday; they would want the operation backdated. It is impossible to satisfy the rising expectations.

We have one of the best health systems in the world. It has been good for a long time, it is not perfect, and some issues need to be addressed, as the member for Mitchell has pointed out. Mental health is probably one of the main areas that needs to be addressed and it is not even covered in this motion today. The motion refers to pointing out inappropriate management of public hospitals which has adversely affected patient treatment. Where are the examples? In my electorate, I have had fewer complaints in the last year or so than I have had for a long time. My electorate is above average in occupation, education and work status, and they tell me when there is something wrong. I have had very few complaints—one relating to the management of a meningococcal episode—but that is a clinical judgement, and we cannot blame the minister for that. The fundamental problem is that we have a federal system that does not fund our public hospitals properly.

Members interjecting:

The Hon. R.B. SUCH: It doesn't! We have a system where the state government is responsible for hospitals but does not have the purse to fund them. I do not know what is in this week's budget but I predict that it will be a health budget. I will be very surprised if this week's budget is not a health budget. But that is a two-edged sword because we have other priorities as well. We have education and police, and if we are not careful we will end up spending all our money on health to the detriment of all other issues. The government could spend every dollar on health and it would not solve the issues because the federal government has the money but not the responsibility, and until we address the basic issue of a federal system which is out of kilter, we will never address key issues of state education or health, and that is the bottom line.

Health has always been a political issue. I remember Martin Cameron, whose daily prayer was 'Lord, give me more public hospital bed waiting lists.' Every day the shadow spokespersons wait for news of doom and gloom and waiting lists, and people who have had the wrong operation. Hospitals are fantastic for political debate and a source of material, but I do not believe our system is in any way approaching a crisis. We have problems from time to time. Doctors are some of the best politicians around; they play the game very well—

The Hon. J.D. Lomax-Smith interjecting:

The Hon. R.B. SUCH: My medical friend here objects to that, but that is a fact. A lot of our hospital system is run at the behest of the medicos as to what they want out of the system. Let's be honest, let's stop pussyfooting around. With respect to the funds and all that goes with them, a lot of it is designed to ensure that our specialists have income approximating $1 million a year. I know somebody who had wax removed from their ears the other day; it cost $368 to put in a tube for two minutes, and $368 to take it out. Let's stop kidding ourselves.

I cannot support this motion. I believe that, overall, the Flinders Medical Centre does a fantastic job. It is under pressure all the time because a lot of people go there instead of going to a GP, but those issues have been around for years, and under the previous government. When I was a member I attended breakfasts there which, I think, have now ceased due to lack of funding. But, there were problems every day then about overcrowding and whatever. They will go on and on because we have an ageing population, we have technicalised medicine, and we have rising expectations which we can never totally satisfy.

The government can always do better in health. I implore the government to look at the accident and emergency situation, but also to look at the question of mental health. That area requires serious attention, including support services and the like. Today, as we all know because we are all practitioners, we are playing the political game because it is emotive, sensitive and it is great politics because there is always the scare factor. Although the deputy leader says he has different statistics, I can only go on what people say to me when they approach my office, and I can honestly say that I have had very few complaints from anywhere in the health system. My constituents will tell me if there is a problem. I conclude by saying that there are challenges for the government. I am sure they will spend a lot more money in this forthcoming budget, but I guarantee the politics of health will be around for a long time to come. I cannot support this motion in this format.

Mrs MAYWALD (Chaffey): For the just over 6½ years that I have been in this place, it has been evident to me that our public health system is grossly under-funded. One of the first things that brought this issue to my attention was in the Riverland where obstetric services were closing down at Barmera hospital, we were struggling to get GPs, and we were struggling to attract resident specialists to the Riverland area. I recall that we were facing shortfalls in our budgets over a couple of years, and continue to do so. I remember meeting with the former minister; I have met with the current minister; and the situation continues to deteriorate even though we continue to do more. I refer to an address made by the Hon. Dean Brown, then minister for human services, to the *Financial Review* Health Congress in 1999, because it best describes the situation we are facing. He stated:

> There are fundamental problems with the structure of Australia's health system and a lack of understanding about these problems by the broader community. . . The public hospital system is unable to cope with the increasing demands placed upon it by the steady ageing of the population. In South Australia, since 1991-92, the 50 to 64-age group has grown in population size by about 14 per cent, while demand on the public hospital system for that age group has increased 37 per cent for the same period. This highlights the problem as the baby boomers turn 50. A person aged 65 or more has four times the health care demand compared to younger people. At 75, this figure increases six fold. . .In percentage terms, then, while the population has increased by only 1.1 per cent, total public hospital acute admissions have increased by 12.4 per cent.

It goes on to say that the demand for cancer services, palliative care and rehabilitation will continue to escalate; Aboriginal health compares dismally to that of non-indigenous Australians; the take-up new medical technologies has led to dramatic cost increases in our hospitals; and procedures such as joint replacements and organ transplants that were once only fiction are now routine—and we have all heard the stories of the 92 and 93 year old people who are improving their quality of life at that age by having hip replacements at a cost to this state of $15 000 every time. Even a small stent, which is now part of a routine practice, cost $9 000 in 1999, so it is considerably more now.

This address goes on to talk about the difficulties in accessing GP services after hours and how it is driving many to use the accident and emergency sections of our hospitals. The address further states:

Costs are therefore shifted from the federal government to the state government.

- With more doctors charging above the bulk billing rate, public hospitals are reporting people coming to the accident and emergency section of the hospital to receive free consultations.

this is adding increased pressure to the system—

- The shortage of medical personnel in rural and remote areas remains acute. In rural South Australia alone, there is a shortage of about 50 GPs. . . We are also seeing a frightening increase in the rise of infectious diseases, including diseases such as Hepatitis C. Obesity and related illnesses are set to become a national health problem.

I could go on and on. This report highlights the extreme pressure which our health system is under. Escalating expenditure is not the only measure that will result in better services.

The conclusions of this address are really interesting as well, because it says that the Australian health care system is facing significant growth, inadequate funding and major structural problems. It further states:

There is a lack of clear vision of the ideal balance between private and public patients and of the role of the general practitioner in the system.

In the past, Australia has prided itself on a high standard of health care for all in the community and that that care was available when needed and was affordable. The national standard of health care is now under real threat.

That statement was made in 1999 by the former minister. The former minister also raised another issue when he said in October 1998 he called for the introduction of a health superannuation scheme to help finance the future health care needs for people in their retirement.

All these are goods ideas but, as we continue to progress and the years go by, we are still not addressing the real fundamental problems, which come down to the fact that there is not enough money to meet the expectation of our community. In this state 23 per cent (or thereabouts) of our budget is raised by state taxes; about 25 per cent is fee for services delivered by state services; and about 52 per cent comes from commonwealth grants. We do not have a lot of room to move in respect of actually meeting that demand for increased health services. We are constantly being told to spend more money. I come back to the 23 per cent state taxes: over half of that comes from property based taxes, and those property based taxes are constantly being put under pressure from people wanting to have them removed. We introduced $20 million for the Save the Murray fund—and listen to the furore that that has caused. Hospitals need much more than $20 million.

The problem is that the scoundrel is not the former minister or the current minister and the debate is irrelevant. The fact is that the fundamentals of health are not right. I cannot support this motion because it points the finger at a particular person. It also talks about failing to immediately provide the board of Mount Gambier Hospital with the report which highlighted serious risk to patient safety. Professor Kearney is on that committee, and he was provided with a copy of that report in mid March when the minister was; that in itself is incorrect in the statements put to house.

Things have changed and things are continuing to change, but they are only changing on the periphery. The fundamental issue is that there is not enough money to fund our health system, and it is experiencing enormous cost pressures just to mark time. To meet the growing demand, the new technologies and the higher expectations of our community, the health system needs a major overhaul, not a minister's censure.

The Hon. K.O. FOLEY (Deputy Premier): As tempted as one might be to look at the damage done by the former minister, the deputy leader, I do not think this parliament has heard two better speeches than those just given by the Independent members of this house and in which we saw party politics put aside.

An honourable member interjecting:

The Hon. K.O. FOLEY: Yes, the independent members of this house, to the member opposite interjecting. I think that the member for Chaffey and the member for Fisher have put it in a way that party politics has not allowed either side over a decade to put it. But the answer is one that is of great enormity, and state governments, as much as we try to find the ultimate solution, will always find it difficult. The speech given by the member for Chaffey, referring to a speech by the former premier, former health minister and now proponent of this measure, really said it all. One moment in politics: what an own goal today by the Deputy Leader of the Opposition!

The challenges confronting us all are enormous. Since coming to office, advice provided to me from Treasury before this debate is that in the 2002-03 budget and the 2003-04 budget this government has increased expenditure on health outlays 18 per cent in nominal terms, and 14 per cent in real terms. We still want to spend more, and the next budget we bring down in 48 hours' time will spend more on health. But ultimately the member for Chaffey and the member for Fisher were absolutely correct: there is a structural imbalance in our system. This government and this minister, my colleague, have attempted to address that in a long-term strategy by the Generational Health Review by asking what structural changes we need to make to our system to cater for the increasing demand.

As Treasurer, I have seen the assessments. I have made these comments publicly, and the federal Treasurer Peter Costello has alluded to many of the same things. In 30 years' time, God help any politician in this chamber, let alone a treasurer or a health minister, having to deal with the enormity of health, because in 30 or 40 years' time the age profile of our nation and, more importantly, of our state will be so much higher than it is today and there will be a significant reduction in the number of taxpayers. Some figures I have seen floated are something like this: the amount of real dollars we need in health in 30 to 40 years' time will be double what we have today but with a substantially reduced tax base. That simply does not equate. That is the enormity of our challenge.

It is beyond the capacity of states alone to solve. It can be dealt with only with an engaged commonwealth government. I am putting aside party politics here, but until we get an engagement from the national government with state governments we will not make the structural changes and improvements that we need. Perhaps Tony Abbott is right: perhaps all of us—state and federal, Liberal, Labor, National and Independent—have to be brave enough to put aside parochial service delivery arguments, and maybe the commonwealth government should handle the entire health budget. Maybe the commonwealth government should look after our hospitals. Maybe we can eliminate the high degree of duplication and wasted resources.

That is the type of debate we need to have in this chamber. That is the quality of the debate. Members who have spoken

prior to me here today have all done so with the best intentions, but let us put party politics aside. Let us put the point scoring aside and actually address the comments made here today by the member for Fisher and the member for Chaffey, because they are two people without vested political interests. They are two people without party interests. Laugh as you may, but they have attempted to put a degree of quality into this debate that we on our side should be prepared to rise above and address in terms of our debate, and members opposite should be prepared to do the same.

But, unknowingly, the deputy leader has not only kicked an own goal but may have done this state a service in his failed political attempt by allowing the contributions just given by the member for Fisher and the member for Chaffey to put all of us on notice that we need to do it better, we can do it better and we should do it better.

Mr BROKENSHIRE (Mawson): It is very sad to see a government in denial, but I can tell members that the board of the Flinders Medical Centre was not in denial, from minutes that I have been briefed on, when it actually considered in the minutes, as I understand it, putting up a sign saying 'FMC hospital closed'. Certainly, too, the South Australian community are not in denial when they cannot get hospital beds. A patient from my electorate rang me at 5.30 in the morning. That patient, who had internal bleeding, had been sitting on a barouche at the Flinders Medical Centre from midnight. That patient phoned me from their mobile phone, desperately calling me for help because she was not getting any from the Flinders Medical Centre. In fact, the only triage she had by way of assessment was from the paramedics who had brought her into the hospital. There was no assessment by the hospital, not because the doctors and nurses were not committed but because they were screaming for support that this government is not delivering.

This government should talk to the ambulance service to find out about the number of bypasses that are continually occurring. They have to drive past the Flinders Medical Centre. Talk to the ambulance officers and they will tell you. Why is it that, at a briefing at the FMC for Liberal members, for the first time last year the financials were not given to us? Never before, in the nine years of my attending the Flinders Medical Centre, have I not been given the financials. They were hidden. They were not available. What is more, this minister ensured that a public servant bureaucrat was there to make sure that the executive of the hospital did not give us the absolute facts to which we were entitled as members of parliament.

That is how unaccountable this government is. The findings about safety at the FMC clearly cannot be ignored. This government has got to get out of denial. I can tell members that, at the moment, if a member of parliament is not getting phone calls I do not know what they are doing. They are welcome to look at the files in my office and those of my colleagues which show that people are consistently contacting us about the broken promises of the Rann government.

The Premier said that he would do more for health, and that he would deliver more. What has happened? We have people getting less and less from this government, and they have had a gutful. The pledge card is just another example of where this government failed to honour its promises. That pledge card said 'better hospitals', and it said, 'more beds'. Where is a better hospital in this state? It is not at Mount Gambier, it is not the Queen Elizabeth Hospital and, certainly, it is not in the south where the Flinders Medical Centre has been under too much stress and pressure. I would love the minister to come with me and speak to my constituent who lay on a barouche next to the x-ray theatre for nearly six hours without even being assessed.

It is appalling; it is a disgrace; and it is a major risk. This motion is one of the few that members on this side of the house have put before the parliament since we have been in opposition, and it should be supported by every member of parliament committed to looking after their electorate. Every member of parliament should get out of denial on this matter. This is a wake-up call for the government and for the minister. The South Australian community deserves a lot better than this. They certainly deserve a lot better than this minister and such an important piece of information that talks about the risking of life. That is what it talked about: the risking of life to the South Australian community, and what did the Minister for Health do?

I will tell members what the Minister for Health did: she sat on that piece of paper for seven weeks and did nothing. Now she smiles about it. We see a Labor Rann government in absolute denial. It is a disgrace, and the South Australian—

The SPEAKER: Order! The time determined by the house for the purpose of the debate of the proposition moved by the Leader of the Opposition has expired.

The house divided on the motion:

AYES (20)

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

NOES (25)

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

Majority of 5 for the noes.

Motion thus negatived.

The SPEAKER: The remarks which I wish to make about the motion are very much the same as those which have been made by the members for Fisher and Chaffey, except perhaps to draw attention to the wider problem that is implicit in remarks that have been made by all honourable members in the course of this debate, and probably similar debates during recent years. It is fallacious for us as a society to imagine that taxpayers' dollars will be adequate, in any sense, to cater for the cost of health care in this country from this day forward, but will become more seriously a problem for us than they

have been in the past at an accelerating rate. Accordingly, to my mind, those calls made by the member for Chaffey, in particular—and, implicitly, by the member for Fisher—for an expansion of funding one cannot help but remark will not be found from the public purse.

All citizens in this country need to recognise two things. In those activities in which they choose to indulge themselves where there is a deliberate and known consequential health care cost, the rate of tax imposed on such activities ought to properly equate the downstream costs that will be incurred by the community and the public health care system that will arise in consequence. For example (and not wishing to alienate smokers in any sense more particularly than they deserve to be), anyone who now smokes should be paying a contribution through the taxation system more than sufficient to meet what are known to be the medical consequences for that activity in the future.

As one who did smoke and who has suffered cancer as a consequence of it, I can say in hindsight that it was unwise, and I had to meet the cost of the surgery from my resources. Notwithstanding that, other activities that result in higher health care and medical treatment costs should be treated accordingly and the money put into a sunk fund, which will ensure that, when the injuries, illnesses and diseases accrue, they can be properly addressed. Those people who speed excessively on the road accordingly should contribute not only a penalty to the public purse for speeding but also an additional penalty to meet the costs of road trauma in our hospitals, reminding them of the consequences that flow from their actions.

Furthermore, quite separate from private medical insurance and the nominal 1 per cent that has been collected over recent years by the federal government for health care purposes to fund public health, a more serious actuarial approach has to be taken to aged care by providing (as has been suggested by the Deputy Leader of the Opposition) a particular form of superannuation to which all people should contribute—not to meet the recurrent costs of health, as is presently attempted by the so-called 1 per cent levy but, more especially, to meet the health care costs that will accrue when they become older. Any other approach is kidding ourselves and leaving the responsibility for those costs improperly, immorally and unfairly on the shoulders of the children yet unborn.

CENSURE MOTION

Mr HANNA (Mitchell): Sir, I seek leave to make a personal explanation.

Leave granted.

Mr HANNA: I missed the vote on the censure motion. In fact, I deliberately abstained from voting. I did not want to take part in what could be seen as a political witch-hunt by the opposition but, on the other hand, I raised some sincere and serious questions about the management of the health care system that were ignored by the government.

The SPEAKER: Order! The member for Mitchell may have anxieties about his actions, but a personal explanation is not the way in which to debate the merit or otherwise of what he has done. If the honourable member finds it difficult to make decisions, that is not a problem about which he ought to bare his soul to the house. The house will note grievances. The member for Mawson.

Mr HANNA: Sir, I rise on a point of order. Is it not the case that, after the conclusion of the debate and the vote, there is no opportunity other than by way of personal explanation to account to my community for my decision on the matter?

The SPEAKER: No; that is a matter for the member to determine at the time of the debate, or use the procedures of the house in some other fashion. In seeking to make a personal explanation, the honourable member should state where it is he believes himself to have been misrepresented by other honourable members, by some inappropriate reporting of his actions or remarks in this house by the media, or similar, not in explanation of his own decision or indecision.

GRIEVANCE DEBATE

SCHOOLS, WILLUNGA PRESCHOOL

Mr BROKENSHIRE (Mawson): In the grievance debate today, I want to give credit to the Willunga Preschool, particularly to the way in which the management and the governing council of the preschool went about what can only be described as an absolutely superb opening of the new Willunga Preschool on Sunday. I was pleased to have the Minister for Education and Children's Services down there as well. The minister could clearly see why I am so proud of the electorate of Mawson and the Willunga community. When talking to the minister, I said that you could feel the vibrancy and community spirit of the Willunga Preschool community. I can be biased, because it is the area in which I live, work and recreate. Members of the Willunga community, like the Mawson electorate, are so committed to each other that they strive further than you could imagine to provide the best opportunities for their community, particularly, on this occasion, for our young people.

I congratulate the Director and the staff for their enthusiasm and capability in delivering a broad-based curriculum and other initiatives which provide lifelong learning skills for the young people in the Willunga Preschool. I also congratulate Mr Ray Martin and the governing council for their excellent work. In fact, the Willunga Preschool governing council is larger than the governing councils of some high schools in South Australia, and that fact alone says a lot. This is an excellent preschool. I particularly want to thank two people on the public record: one is the previous director, Shelley Mair, and the other is Lynda Gregory, who was a member of the committee and also Chair of the Willunga Preschool for some time.

New facilities do not happen by accident and they do not happen immediately. Having been a minister myself, I know that it takes a great deal of time to get capital works projects up. You get a capital works budget allocation, but trying to get it through in a given time is never easy. I think the first time we discussed the preschool upgrade, or brand new preschool requirements, at Willunga was back in 1996 or 1997. It was Lynda Gregory and Shelley Mair who really drove the project in a most professional and compassionate way—in a way that achieved the outcome the minister and I saw and were so proud of on Sunday. I also want to congratulate the parents, grandparents and other people from the Mawson area who were in attendance to support the opening. I pay credit particularly to the beautiful young preschool children who were there, singing some magnificent songs and sitting so quietly during the formal opening, at which the minister and I were privileged to speak. So, well

done to the Willunga Preschool, and I look forward to continuing to offer my support as the local member.

In the few minutes left to me, I also want to congratulate Sergeant Andy Minnis of South Australia Police for being awarded Police Officer of the Year, through the Unley Rotary Club. Sergeant Andy Minnis is a credit to himself, his family and South Australia Police. As Officer-in-Charge of the Aldinga Police Station until recently—he also served the areas of Willunga and Mount Compass and also backed up Senior Constable Grant Pyatt at McLaren Vale—Andy Minnis did an outstanding job with his team in combating crime in areas such as illicit drug use and drug trafficking. In relation to the issue of road carnage, Sergeant Andy Minnis was also very committed to getting up the Road Safety Committee, moving around the schools and being very visible and prepared to meet with groups and organisations in the area. That is what has led to Sergeant Andy Minnis receiving this award.

Whilst it is not like becoming a commissioned officer from the point of view of financial reward and other increased leadership requirements in those positions, I would say that this would be the most outstanding award that one could get as a police officer, because this is actually the recognition of a police officer's commitment to the community that he serves in South Australia. Sergeant Andy Minnis is a great example of why South Australia's police force is the finest in Australia and, indeed, one of the finest in the world, and I congratulate him.

ELECTRICAL CONTRACTORS LICENCES

Mr SNELLING (Playford): I was visited yesterday by two constituents, a husband and wife, who run an electrical contracting business as a partnership in my electorate, and they are both required, under section 6 of the Plumbers, Gasfitters and Electricians Act 1995, to be licensed electrical contractors. The husband runs the electrical side of the business, as he is the electrician, and his wife does the bookkeeping for the business. While she is a licensed electrical contractor, she has no qualifications to do electrical work. Simply for the purpose of having their business run as a partnership, she is required under law to be a licensed electrical contractor.

Until this year, the annual fee that is normally applied to licensed electrical contractors has been waived for her, and the husband and wife have not been required to cough up the $232 that is required every year to be licensed electrical contractors. It has been recognised up until recently that, while the husband is obviously doing the electrical work and he should pay the fee, the wife is simply required under law to be a licensed electrical contractor so she has not been required to pay that $232.

Recently, however, the wife received a bill along with her husband for $232, which might seem like a reasonably small impost on their business. However, these people assure me that their margins are fairly fine and that this $232 will be a burden on their business. It seems to me something of a nonsense to require the partner, the wife, in my constituent's business to be a licensed electrical contractor, when in fact her role in the business is not doing electrical work: it is simply doing the bookkeeping. So, I will be writing to my friend, the Minister for Consumer and Business Affairs, asking him to examine amending section 6 of the act so that, in situations such as my constituent's, where a husband and wife are running a business as partners with one of the couple—generally the wife—doing the bookkeeping, and the husband doing the electrical work, both are not required to be licensed electrical contractors. It would seem sufficient that only the partner who is engaged in the actual electrical work should be required to be a licensed electrical contractor. That would seem a sensible thing to do.

Alternatively, we should revert to the original exemption that was provided in such cases, so that in an electrical business where there is only one electrician only the electrician is required to be a licensed electrical contractor. So, I look forward to having a good hearing from the minister on this matter.

BEDFORD INDUSTRIES

Mr SCALZI (Hartley): Today I wish to refer to the achievement awards at Bedford Industries. Last week on 19 May awards were given for the achievements of Bedford Industries. I will not name all the recipients, but they are worthy of their achievements and should be commended, especially the staff and volunteers. The function was attended by Her Excellency the Governor, Marjorie Jackson-Nelson, the Hon. Gail Gago represented the Premier, and Isobel Redmond, the member for Heysen, represented the leader. I was also fortunate to attend.

In giving recognition to those achievements, today I would like to refer to the 50 extra places provided for TAFE in that area, because it is important that we provide opportunities for our citizens with disabilities, and give them every chance and recognition in the work force. Sally Bowen, who is responsible for liaising with TAFE for Bedford Industries, is very appreciative of the government's support; that must be acknowledged. I believe that this is an area where politics should never be played because it is such an important organisation, and it requires the support of state and federal governments. Indeed, industry in general needs to support and provide employment opportunities for workers at Bedford Industries and in other areas where people with disabilities can be given the opportunity to participate and contribute as workers in our community.

I am advised that Bedford Industries has a long standing relationship with the Onkaparinga TAFE which has, in the past, negotiated low fees for trainees participating in certificate courses and Bedford Industries has been pleased to cover those costs. Some 250 trainees have benefited from such courses. The most typical courses are Certificate II level in horticulture, furniture, business and hospitality. Bedford Industries hopes to expand into Certificate III courses. Trainees have one day a week at TAFE plus on-job supervision. This year Bedford Industries successfully applied for ACE (Adult and Community Education) funding under the SA Works program. TAFE wrote the proposal on behalf of Bedford Industries and received funding for 50 new TAFE places. The funding will also benefit the 525 disabled people who work at Bedford Industries. In fact, they have also been able to hire additional trainers and provide extra courses and resources, presumably, with savings from the course fees. Bedford Industries works with many school leavers, but some trainees are over 50 years old, in which case, Bedford Industries is happy to cover their costs.

Sally Bowen wants to particularly acknowledge the support of the government, TAFE, the SA Works program, and the Onkaparinga TAFE, which have been crucial in providing these opportunities for Bedford Industries' workers. This area requires support from federal and state

governments and businesses. On 4 May, the Hon. Senator Kaye Patterson, Minister for Family and Community Services, also visited Bedford Industries. The minister announced a funding package of $435 000 for Bedford Industries Incorporated in South Australia. The funds will help purchase and implement an IT corporate information system, employ a contractor to help develop and design specifications in the timber business, and upgrade the Pooraka packaging facility to meet pharmacy standards. The business services operated by Bedford Industries employs 525 people with disabilities.They are located at a number of sites in South Australia, including Pooraka, Lonsdale, Panorama and Clapham. It is important to get the support—

Time expired.

TELSTRA

Mr RAU (Enfield): Today I want to say a few words about what was the jewel in Australia's corporate crown as a public enterprise, Telstra, and what has sadly overtaken Telstra in the last few years. Of course, all of us remember that Telstra has progressively been the subject of attempts at privatisation by the present federal government. The first one of those attempts succeeded only with the assistance of the late, but not greatly lamented, Senator Colston. There was a further watering down of the public ownership of Telstra some years later, again involving some rather shabby dealings between members of the upper house and the present federal government. As a result, we now have a 50.1 per cent publicly owned enterprise with the balance of the shares being owned by private individuals.

I find it quite amusing that the process by which a publicly owned corporation is sold to the people who already own it is described as corporatisation or privatisation (I would have thought that robbery is closer to the appropriate name). Be that as it may, that is a debate that is now in the past. I will move on from the miserable episode of the so-called selling down of Telstra. I remember that one of the key elements of this was so-called 'community service obligations'. A great deal was made about what would happen for people in rural and remote communities if Telstra were to be sold down. One of the conditions was going to be that people in rural and remote communities would receive increased levels of service, greater facilities and so forth.

We all remember that dreadful situation with the woman who lost a member of her family because the telephone was not on. What a disgrace! That is the sort of practical follow-through that we have seen from the mob at Telstra. But, in my remarks today, I am more particularly concerned not about the rural and remote communities, because they have people who can speak for them, but about the people who live in my electorate who find it difficult to pay their phone bills.

I am concerned about the people who are not signed up for new technology. They are not interested in mobile phone contracts; like me, they cannot read or understand them. They are people who are not using broadband services; they are people who want to be able to use the telephone to speak to their friends or relatives, to speak to a doctor, to communicate with their children, and so forth. They deal with ordinary rental telephones which are connected by hard wire into the grid system. These are the people whom I am concerned about, and these are the people who are miserably abused by the present management of Telstra.

We all remember how, when the present leadership took over Telstra, we had them playing with our public asset on the big casino out there in the world market, buying into bubble enterprises in China, spending billions and billions of dollars which had been accumulated over the best part of a century by the old PMG, lost in some speculative waste of time by these people. It was not just millions—it was billions and billions of dollars! The same people who have been prepared to speculate billions and billions of dollars on the global casino, the same management that I am talking about here, is now introducing a series of rental increases that have gone on year after year. They may or may not be delivering better or cheaper services to broadband users, but as far as most of my electors are concerned, so what? The real issue is: what are they doing for the ordinary person, the pensioner or the person on a low income? Very, very little!

It is really despicable that many people are forced to use credit cards to pay for these accounts. Not only are they penalising them with higher fees, but they are actually penalising them for using a credit card. I noticed in today's *Advertiser* that their explanation for why they are doing this is 'because we can'. Well, goodness me, what marvellous corporate leadership we have from Telstra, the flagship company which is 50.1 per cent government owned. What message does that give to the rest of corporate Australia? Go out there and skin everybody who pays by credit card. They should be setting an example for the rest of us, and the rest of corporate Australia, not leading the way in kicking people who are already down even further down.

This is an absolute disgrace, and the sooner something is done about Telstra's leadership and the sooner it lives up to its community service obligations for ordinary people who have ordinary phones, live ordinary lives and who want to make ordinary domestic calls, the better. It is not much good saying there is a new broadband system or that there is a cheaper phone call to the United States. People in my electorate do not want to be hit with credit card charges and they do not want increased line fees.

YOUTH PARLIAMENT

The Hon. M.R. BUCKBY (Light): Today I congratulate Ms Penny Cavanagh, the education officer of the parliament, for her organisation of the Youth Parliament which took place only last week. It is really good to see young people using their debating skills in this chamber and, in particular, young people from all around the state, whether they be from high schools or private schools. Not only do they meet other young people from other schools but they also get a feel for the democratic process and how it operates in this particular state. It is an opportunity for young people for one morning or for one day to understand what it might feel like to be a politician in this place contributing to debate. My conversations with many of them afterwards showed that they appreciated the time in which to do that. Not only do they gain that experience but they also gain a certain amount of knowledge about the passage of a bill.

The bill that they were debating this year was that the citizens of South Australia be required to carry a South Australian card. It was the SA Card Bill. It was a very good debate; not only was it of high quality but it also contained some humour. The requirements of the bill were that a person had to carry a card from the time they were born until the time they died. It raised all sorts of interesting connotations and suggestions about a baby carrying a card, how soon it would have to put a fingerprint on the card, what happened if it lost the card and who was responsible for it at that young

age. Then what happens from being a baby to when you are even 10, let alone 20 or 50, as your facial expressions change and you age, and whether that is represented on the card. It was a very good topic to debate and it allowed the debaters to get their teeth stuck into something.

Members would remember the debate some years ago on the Australia card and the emotional debate that occurred throughout the community. It allowed these young people to get their teeth stuck into this particular debate. There were some holes in the bill on the practicality of what was being suggested which the opposition could certainly attack. Two schools from my electorate were represented in the Youth Parliament—Gawler High School and Xavier College. I commend them for their efforts. Members of the Gawler High School team visited me the week prior to the debate to run their ideas past me on how they would attack the topic and talked about the issues that they would raise. I commend them for that because it meant that I was able to get a feel of the direction from which they were coming and I was able to give them some advice not only about the parliamentary process but also about how each speaker should attack the topic because each speaker only had two minutes in which to present their arguments.

Likewise, one of the members of Xavier College saw me regarding a grievance debate about Gawler traffic issues, which are very topical. She spoke very well in this place and raised many issues of importance for Gawler people. It is interesting to see the talent that the young people in our schools have. Some of the debaters were quite outstanding and all of them performed extremely well. If they are any representation of future politicians—the quality of their debate and the level of their thinking and humour displayed on that day—then this place will be well served indeed. Again I congratulate Penny Cavanagh for all the work that she does for the Youth Parliament. It is a very worthwhile exercise. I sat in on the entire day and it was extremely good to see exactly what was going on.

YOUTH, GOLDEN GROVE

Ms RANKINE (Wright): Today I speak in defence of the young people in my electorate of Wright. As members would be well aware, we have a very large population of young people in Golden Grove and, indeed, the local high school campus (which includes one public school and two private schools) has approximately 3 000 young people on it. I refer to a headline in *The Leader Messenger* on 12 May which said, 'Stop Whingeing'. Those comments were attributed to Councillor Osterstock from the Tea Tree Gully council. I understand that article was in reference to comments young people had made in relation to the lack of recreation and sporting facilities in the Golden Grove area and, if Councillor Osterstock made those comments, I have to say that I am appalled by them. The article referred to a community survey undertaken by the council in 2003-04 in which 43 per cent of the 5 509 respondents indicated that entertainment was the most serious issue for young people in our area.

According to the article, that was further backed up by the drug arm 'Let's Talk Drug Education Program', whose own research indicated that boredom was the second highest reason given for young people using drugs in that particular area. Council's own youth advisory committee—and I make the point that it took approximately 18 months of my writing to the council and making speeches in here before they established a youth advisory council—in response to the dry zone, said: 'The biggest problem was younger people had limited things to do within Golden Grove, as well as the rest of the city at night.' The dry zone review, which was conducted recently, also showed that participants agreed that the biggest problem, as I said, was younger people had limited things to do within Golden Grove. This simply has to be addressed.

Councillor Osterstock's response to stop whingeing and offer suggestions is quite amazing. However, I can understand why he may be feeling a little sensitive. Let me remind him about council's obligations and responsibilities and his responsibilities in representing that area. I remind him about the vacant 20-hectare district sports field site in the heart of Golden Grove which was supposed to be a regional facility and which never happened. I remind him of the council meeting on 28 June 2001 when that proposal was killed off. Where was Councillor Osterstock? I do not know; he was not at that meeting. On 25 February a meeting was held at the Golden Grove Recreation and Arts Centre about recreational facilities and the Golden Grove area generally. No-one was invited; none of the sporting clubs was invited; the local member was not invited. They had a meeting to look at those issues without telling anyone that it was on.

On 7 May 2002, a motion was moved to turn the district sports field site into a park-like facility. He was at that meeting and supported that. The only thing that has occurred at that site is a skate park facility—and they have located a public toilet right on the main road. Despite many hundreds of thousands of funds being directed to that facility, nothing has happened. Our community has put forward ideas but they have never seen them implemented. They have been strung along for years. I suggest that the council and Councillor Osterstock stop blaming young people for council's lack of action and their inadequacies. We have worked for years to have these problems addressed. I have warned them for years that there would be some difficulties—and where was this councillor? What was he doing to represent young people in our area? He needs to stop blaming young people and start representing them. They have used whatever opportunities they have had made available to express their views and the result is that they have been attacked. Councillor Osterstock and the Tea Tree Gully council need to start listening to young people in our area and start acting in response to their concerns.

Time expired.

MINISTER'S REMARKS

The Hon. R.J. McEWEN (Minister for Agriculture, Food and Fisheries): I seek leave to make a personal explanation.

Leave granted.

The Hon. R.J. McEWEN: From time to time, a record of what we said does not necessarily reflect what we meant to say. Yesterday in answer to a question from the member for MacKillop I said:

> I do not see it as a high priority for South Australian taxpayers to recover the $2.94 million.

Obviously, what I intended to say is:

I see it as a high priority for South Australian taxpayers to recover the $2.94 million.

I think it is important that I correct the record, so that it reflects what I intended to say.

HEALTH AND COMMUNITY SERVICES COMPLAINTS BILL

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

No. 1. Page 5, lines 22 and 23 (clause 4)—Leave out the definition of "close relative".

No. 2. Page 5 (clause 4)—After line 23 insert the following:

"Commissioner" means the Health and Community Services Complaints Commissioner appointed under Part 2 (and includes a person acting in that office from time to time);

No. 3. Page 5 (clause 4)—After line 27 insert the following:

(ba) a service for the care or protection of any child who has been abused or neglected, or allegedly abused or neglected, and includes any service that relates to the notification of any case of child abuse or neglect (or alleged child abuse or neglect), or the investigation of a case where a child may be in need of care or protection, or any subsequent action taken by a service provider arising from any such investigation; or

No. 4. Page 6, line 21 (clause 4)—Leave out "Part 2" and substitute:

this Act

No. 5. Page 7, lines 9 to 11 (clause 4)—Leave out the definition of "HCS Ombudsman".

No. 6. Page 8, lines 10 to 12 (clause 4)—Leave out paragraph *(k)* and insert:

(k) the process of writing, or the content of, a health status report;

No. 7. Page 8, line 20 (clause 4)—Leave out "nursing home" and insert:

aged care facility

No. 8. Page 8 (clause 4)—After line 26 insert the following:

"health status report" means a report prepared by a person, agency or body on the physical, mental or emotional health of a person where the purpose for preparing the report is not for the purpose of providing a health service within the meaning of paragraphs *(a)* to *(j)* (inclusive) of the definition of "health service";

No. 9. Page 9 (clause 4)—After line 1 insert the following:

"public authority" means—

(a) a government agency; or

(b) a body included within the ambit of this definition by the regulations;

No. 10. Page 9, lines 2 to 8 (clause 4)—Leave out the definition of "putative spouse".

No. 11. Page 9, lines 24 to 28 (clause 4)—Leave out the definition of "same sex partner".

No. 12. Page 9, line 29 (clause 4)—Leave out the definition of "spouse".

No. 13. Page 9—After line 34 insert new clause as follows:

Application of Act

4A. (1) Subject to this section, this Act applies to or in relation to a health or community service provided—

(a) by a public authority, whether or not the service is provided for fee or reward; or

(b) by a person or body, other than a public authority, who or that provides that service for a fee or other form of reward that is charged or payable at normal commercial rates.

(2) This Act does not apply to or in relation to a health or community service provided by, or delivered through, a volunteer.

No. 14. Page 10, line 1 (Heading)—Leave out heading and insert:

Part 2—Health and Community Services Complaints Commissioner

No. 15. Page 10, lines 4 and 5 (clause 5)—Leave out subclause (1) and insert:

(1) There is to be a *Health and Community Services Complaints Commissioner.*

No. 16. Page 10, line 6 (clause 5) to Page 48, line 16 (clause 85)—Leave out "HCS Ombudsman" or "HCS Ombudsman's" wherever occurring and insert "Commissioner" or "Commissioner's".

No. 17. Page 11, line 22 (clause 9)—After "health" insert:

or community

No. 18. Page 12, line 20 (clause 9)—Leave out "by the Minister or".

No. 19. Page 13, lines 3 to 11 (clause 12)—Leave out subclauses (1) and (2) and insert:

(1) The Commissioner may establish such committees as the Commissioner thinks fit to assist the Commissioner in the performance of his or her functions under this Act.

No. 20. Page 13, line 15 (clause 12)—Leave out "the Minister or the HCS Ombudsman" and insert:

the Commissioner

No. 21. Page 13 (clause 13)—After line 26 insert the following:

(5) Nothing in this section prevents the Commissioner, or a member of the Commissioner's staff, acting as a conciliator under this Act.

No. 22. Page 14—After line 22 insert new clause as follows:

Other reports

16A. (1) The Commissioner may, at any time, prepare a report to the Minister on any matter arising out of the exercise of the Commissioner's functions under this Act.

(2) Subject to subsection (3), the Minister must, within 2 weeks after receiving a report under this section, have copies of the report laid before both Houses of Parliament.

(3) If the Minister cannot comply with subsection (2) because Parliament is not sitting, the Minister must deliver copies of the report to the President and the Speaker and the President and the Speaker must then—

(a) immediately cause the report to be published; and

(b) lay the report before their respective Houses at the earliest opportunity.

(4) A report will, when published under subsection (3)*(a)*, be taken for the purposes of any other Act or law to be a report of the Parliament published under the authority of the Legislative Council and the House of Assembly.

No. 23. Page 15, lines 27 and 28 (clause 21)—Leave out ", needs and wishes" and insert:

and any requirements that are reasonably necessary to ensure that he or she receives such services

No. 24. Page 17 (clause 23)—After line 14 insert the following:

(ea) a Member of Parliament; or

No. 25. Page 17, lines 21 and 22 (clause 23)—Leave out all words in these lines after "died—" in line 21 and insert:

a person who can demonstrate to the Commissioner that he or she had an enduring relationship with the deceased person, or a personal representative of the deceased person

No. 26. Page 19, line 22 (clause 26)—Leave out "two years" and insert:

one year

No. 27. Page 21, line 10 (clause 29)—Leave out "HCS Ombudsman may, in such manner as the HCS Ombudsman" and insert:

Commissioner may, in such manner as the Commissioner

No. 28. Page 22 (clause 29)—After line 7 insert the following:

(13) For the purposes of conducting any inquiry or informal mediation under this section, the Commissioner may obtain the assistance of a professional mentor.

(14) The Commissioner may discuss any matter relevant to making a determination under section 28 or with respect to the operation of this section with a professional mentor.

No. 29. Page 27, line 24 (clause 39)—After "conciliation" insert:

under this Part

No. 30. Page 30 (clause 44)—After line 3 insert the following:

(3) The Commissioner may, at any time, decide to attempt to deal with a complaint by conciliation.

(4) The Commissioner may, in attempting conciliation under subsection (3), act personally or through a member of his or her staff.

(5) The Commissioner may, if satisfied that the subject of a complaint has been properly resolved by conciliation under subsection (3), determine that the complaint should not be further investigated under this Part.

(6) Anything said or done during conciliation under subsection (3), other than something that reveals a significant issue of public safety, interest or importance, is not to be disclosed in any other proceedings (whether under this or any other Act or law) except by consent of all parties to the conciliation.

No. 31. Page 33 (clause 54)—After line 17 insert the following:

(2a) If the service provider is a registered service provider, the Commissioner must provide a copy of the notice to the relevant registration authority.

No. 32. Page 33, lines 18 to 26 (clause 54)—Leave out subclauses (3) and (4) and insert:

(3) The Commissioner must then allow the service provider and, if relevant, a registration authority, at least 28 days to make representations in relation to the matter.

(3a) A service provider may, in making representations under subsection (3), advise the Commissioner of what action (if any) the service provider has taken, or intends to take, in response to the matters raised in the notice.

(4) After receipt of representations under subsection (3), or after the expiration of the period allowed under that subsection, the Commissioner may publish a report or reports in relation to the matter in such manner as the Commissioner thinks fit.

No. 33. Page 33, line 28 (clause 54)—After "community service provider" insert:

and then allow the service provider at least 14 days to make representations in relation to the content of the report

No. 34. Page 33 (clause 54)—After line 28 insert the following:

(5a) A report under this section may include such material, comments, commentary, opinions or recommendations as the Commissioner considers appropriate.

(5b) The Commissioner may provide copies of a report to such persons as the Commissioner thinks fit.

(5c) The Commissioner must provide a copy of a report to any complainant and service provider that has been a party to the relevant proceedings.

No. 35. Page 44, lines 1 to 25 (clause 75)—Leave out the clause.

No. 36. Page 44—After line 25 insert new clause as follows:

Returns by registration authorities

75A. (1) A registration authority must, from time to time as determined by the Commissioner, lodge with the Commissioner a return that sets out the prescribed particulars concerning—

(a) specified classes of complaints received by the registration authority during a period determined by the Commissioner; and

(b) action taken during that period in response to, or as a result of the receipt of, those complaints, or similar complaints received during a preceding period.

(2) A return under subsection (1) must be in a form determined by the Commissioner after taking into account what can be done to assist with ease of collection of information and administrative efficiencies.

(3) The Commissioner must (to such extent as the Commissioner thinks fit) consult with registration authorities about—

(a) the form of any return under this section; and

(b) protocols and principles that should apply in relation to the operation of this section.

(4) The Commissioner may publish any return received under this section, or a summary of information contained in such a return, in such manner as the Commissioner thinks fit.

No. 37. Page 46—After line 5 insert new clause as follows:

Protection of certain information

79A. Nothing in this Act requires the production or provision of information held under section 64D of the *South Australian Health Commission Act 1976*.

No. 38. Page 46 (clause 80)—After line 18 insert the following:

(2) A person who does anything in accordance with this Act, or as required by or under this Act, cannot, by so doing, be held to have breached any code of professional etiquette or ethics, or to have departed from any acceptable form of professional conduct.

No. 39. Page 46—After line 35 insert new clause as follows:

Consideration of available resources

82A. (1) A recommendation of the Commissioner under this Act in relation to a service must be made in a way that to give effect to it—

(a) would not be beyond the resources appropriate for the provision or delivery of services of the relevant kind; and

(b) if relevant, would not be inconsistent with the way in which those resources have been allocated by a Minister, chief executive or administrative unit in accordance with government policy.

(2) In subsection (1)—

"chief executive" means a chief executive under the *Public Sector Management Act 1995*.

No. 40. Page 46—After line 35 insert new clause as follows:

interaction with Ombudsman Act 1972

82B. Despite any other provision of this Act or the *Ombudsman Act 1972*—

(a) a matter that may be (or has been) the subject of a complaint under this Act, being an administrative act of an agency to which that Act applies, may be referred to the State Ombudsman under section 14 of that Act on the basis that the relevant House of Parliament or committee considers that the matter involves a significant issue of public safety, interest or importance; and

(b) a matter that may be (or has been) the subject of a complaint under this Act, being an administrative act of an agency to which that Act applies, may be referred to the State Ombudsman under section 15(3) of that Act and the State Ombudsman may proceed to deal with the matter if the State Ombudsman considers that the matter may involve a significant issue of public safety, interest or importance; and

(c) the State Ombudsman may conduct an investigation of an act of the Commissioner under that Act even if the matter involves a health or community service provider that is not an agency to which that Act applies (and may, in conducting the investigation, look at the substance of the original complaint, and consider or review any other matter that may be relevant to the investigation, even if the subject matter of the original complaint did not involve an administrative act within the meaning of that Act).

No. 41. Page 47, lines 6 to 13 (clause 83)—Leave out paragraphs *(b)* and *(c)*.

No. 42. Page 47, lines 29 to 34 (clause 83)—Leave out subclauses (3) and (4).

CONVEYANCERS (CORPORATE STRUCTURES) AMENDMENT BILL

The Hon. M.J. ATKINSON (Minister for Consumer Affairs) obtained leave and introduced a bill for an act to amend the Conveyancers Act 1994. Read a first time.

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

That this bill be now read a second time.

This bill seeks to carry out the government's obligations under National Competition Policy to reform the ownership restrictions in the Conveyancers Act 1994. The bill makes these amendments to the present ownership restrictions in the Conveyancers Act 1994:

- It removes the present ownership restrictions, but precludes land agents or financial institutions and others who finance land purchases from owning, or being directors of, conveyancing companies;
- It modifies the present requirement that all directors of incorporated conveyancers must be registered conveyancers such that only a majority of the directors need be registered conveyancers, with the business to be managed by a registered conveyancer.

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

Leave granted.

A National Competition Policy (NCP) review of the *Conveyancers Act 1994* (the Act) was done in 1999. The review panel found that the Act's restriction on ownership of incorporated conveyancing businesses could not be justified. It found that the restrictions inhibit the development of multidisciplinary practices, which may offer economies of scale and flexibility of service provision. The report recommended replacing the ownership restrictions with provisions that require the proper management and supervision of a registered incorporated conveyancing business by a registered conveyancer, and to make it an offence for directors to influence conveyancers unduly in the performance of their duties.

Although a Bill to carry out these recommendations was introduced into the South Australian Parliament by the former Liberal Government, it lapsed on the calling of the election.

The Government has considered the recommendations of the NCP review of the Act and formed a different response to the recommendations of that review, which it seeks to implement with this Bill.

The objective of restricting the ownership of conveyancing practices to registered conveyancers is to ensure that professional and ethical standards are adhered to and potential conflicts of interest avoided. The Government is not convinced that these benefits can be as effectively delivered by alternative measures such as a code of conduct or professional management requirements.

There are, though, certain circumstances in which there would be little risk to conveyancers' independence and ethical and professional responsibilities, for example, where conveyancers retained control of the conveyancing business. In such circumstances advantages may be gained from removing the restrictions on ownership of conveyancing businesses to assist flows of additional capital into the conveyancing sector and promote competition in a form that benefits consumers.

The aim of restricting the ownership of conveyancing practices to registered conveyancers and their prescribed relatives or employees is to ensure that professional and ethical standards are adhered to and potential conflicts of interest avoided. This is of clear benefit to consumers, as transactions involving the transfer of real property tend to be the most important transactions consumers ever enter into and the potential losses where a transaction goes wrong are great.

The benefit of an independent conveyancer acting at all times in the best interests of his or her client is considerable. Examples include where a land agent has prepared a defective vendor disclosure statement that does not disclose, for example, an easement or other encumbrance on the property to be transferred. In such a scenario the conveyancer acting for the purchaser should alert the purchaser about the deficiency, thereby giving the purchaser the opportunity to decide not to proceed with settlement. However, where the conveyancer is associated with or related to, for example, the land agent, the conveyancer may have a conflicting interest in ensuring that the transaction is completed so that the agent receives its commission on the sale of the property.

Other relationships or associations that may give rise to similar conflicts include those with a financial institution financing the purchase, which stands to benefit from the completion of a land sale by earning loan fees and interest on the mortgage.

A recent case illustrating such conflicts is that of Sharkey v Combined Property Settlements Pty Ltd [1999] WADC 41. In that case the two non-conveyancer directors of an incorporated conveyancing practice were also directors of companies that included one of the vendors of the property being transferred, the land agent engaged to sell the property, as well as of a building company that was to build a medical centre on behalf of the purchasers. When one of the non-conveyancer directors learned through his association with the purchasers' builder that it was planned to include a pharmacy in the proposed medical centre, he instructed the conveyancer director of the conveyancing practice to terminate the contract on behalf of the vendors by exploiting a condition in the sale contract that required that a contract with the builder be signed within a certain period. This non-conveyancer director instructed this on the basis that he also had an interest in another development, which was also to include a pharmacy and would have faced competition from the pharmacy to be located in the proposed medical centre. The Western Australian District Court found the conveyancing company breached the Settlement Agents Code of Conduct for acting where a conflict of interest was foreseeable and for failing to disclose interests the conveyancing company had in the transaction.

The situation in this case arose notwithstanding the existence of a code of conduct dealing with conflicts of interest and that the company argued that the conveyancer-director was in day-to-day control of the business. Therefore, it is the Government's view that, at the very least, land agents and financial institutions offering credit should be precluded from owning conveyancing businesses.

This would not preclude financial institutions from employing in-house conveyancers to perform conveyancing work on behalf of the financial institution (e.g. preparing mortgages and attending to settlement on the bank's behalf), however, a financial institution would be precluded from owning a separate conveyancing business, where that business could then potentially act for the vendor in a transaction in which the financial institution has an interest in terms of providing finance to the purchaser.

Apart from the conflicts that may arise where there are links to other specific occupations such as those identified above, a more general conflict could arise where non-conveyancers control conveyancing businesses between the client's interests and the owner's interest in maximising profit. It may be that a conveyancer perceives a conflict of interest in acting for a particular client, or more likely, in circumstances where the legislation permits the conveyancer to act for both parties to the transaction. Although the conveyancer's duties to the clients may be to disclose the conflict and cease acting for one or both parties, the conveyancer may be under express or implied pressure from the non-conveyancer employer to continue acting for both and therefore generate revenue from the transaction.

The Australian Institute of Conveyancers argues that non-conveyancers are less able to recognise conflicts of interests and where they may arise. This suggests that, even if a provision were enacted making it an offence to give an improper direction to a conveyancer employee, there is no guarantee that a director will recognise when such an improper direction is being made. This supports the argument that conveyancers retaining control of conveyancing businesses ensures that ethical and professional standards are adhered to. Dealing with this objective by imposing conduct rules or other legislative prohibitions may be less effective, as the Sharkey case demonstrates.

Ownership restrictions have been argued to inhibit the development of multidisciplinary practices, which may offer economies of scale and flexibility of service provision. This argument has been advanced particularly for legal practitioners and various medical occupations. However, it is not immediately clear what other disciplines would logically be combined with conveyancers, apart from those areas where conflicts are likely to arise, such as combined services with land agents or financial institutions. It may be that legal practitioners would seek to set up multidisciplinary practices with conveyancers, however, given that many legal firms in South Australia already employ conveyancers to offer cheaper conveyancing services to clients, it is not clear that this would necessarily result in greater flexibility of service delivery than already exists. Possibly, conveyancers may set up business with surveyors to deliver a package of services for development and land division.

It is suggested that there are limited costs arising from the ownership restrictions on conveyancing practices, in comparison with the significant benefits derived from ensuring that conveyancers act ethically and professionally, avoiding conflicts of interest (bearing in mind the big losses than can result from such an important transaction as the transfer of real property).

However, there may be certain circumstances in which there would be little risk to conveyancers' independence and ethical and professional responsibilities, for example, where conveyancers retained control of the conveyancing business. In such circumstances advantages may be gained from removing the restrictions on ownership of conveyancing businesses to remove impediments to flows of additional capital into the conveyancing sector.

By way of example, if the ownership restrictions were removed but were to be replaced with a requirement that the majority of directors or partners in a conveyancing practice are registered conveyancers, this would allow investment in a conveyancing business by a person interested in business management and marketing, who could help the business grow by carrying out innovative business and marketing strategies.

The Government has considered adopting the New South Wales and Western Australian models of requiring that at least one director of a conveyancing company must be a registered conveyancer. However, while this option would minimise the risks to consumers by ensuring that at least one director is aware of conveyancers' ethical and fiduciary responsibilities, this would not be as effective in ensuring that conveyancing companies act in accordance with these responsibilities as a model retaining conveyancer control of the company.

The Bill therefore makes these amendments to the present ownership restrictions in the Conveyancers Act 1994:

- Removes the present ownership restrictions, but precludes land agents or financial institutions and others who finance land purchases from owning, or being directors of, conveyancing companies;
- Modifies the present requirement that all directors of incorporated conveyancers must be registered conveyancers such that only a majority of the directors of the directors need be registered conveyancers, with the business to be managed by a registered conveyancer.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Conveyancers Act 1994*

4—Amendment of section 3—Interpretation

It is necessary to include a definition of ***close associate*** for the purposes of the amendments proposed to be made to section 7 of the Act.

5—Amendment of section 7—Entitlement to be registered

This clause amends section 7 of the Act, which deals with the entitlement to be registered as a conveyancer under the Act. The amendments specifically relate to the registration of companies as conveyancers. Currently, the directors of a company seeking registration must be natural persons who are registered conveyancers (except in the case of a company with only 2 directors, where 1 director may be a prescribed relative of a registered conveyancer as the other director). There are also restrictions on who can own shares or exercise voting rights in the company, and in relation to the disposal of shares in the company (amongst other things). It is proposed that it now be the case that the rule is that a company have a majority of directors who are registered conveyancers, that the voting rights be exercisable by a majority of persons who are registered conveyancers, and that certain persons be excluded from participating as a director or from being entitled to a distribution of profits (*see* the definition of ***prescribed person***). It is intended to retain the requirement that the sole object of the company must be to carry on business as a conveyancer.

6—Insertion of sections 9A and 9B

This clause provides for the creation of two new offences under the Act.

9A—Company conveyancer's business to be properly managed and supervised

New section 9A requires a company that is a registered conveyancer to ensure that the company's business as a conveyancer is properly managed and supervised by a registered conveyancer who is a natural person.

9B—Improper directions etc relating to conveyancing

New section 9B provides that if a director or manager of a company that is a registered conveyancer directs or incites a registered conveyancer or other person employed by the company to act unlawfully, improperly, negligently or unfairly in the course of managing or supervising or being employed or otherwise engaged in the company's business as a conveyancer, the company and the director or manager are each guilty of an offence.

7—Amendment of section 10—Non-compliance with constitution

8—Amendment of section 11—Alteration of constitution

These are consequential amendments.

9—Amendment of section 45—Cause for disciplinary action

This clause amends section 45 of the principal Act, which sets out the circumstances in which there is proper cause for disciplinary action against a conveyancer. In addition to the existing grounds for disciplinary action, this amendment provides that there is proper cause for such action if—

(a) in the case of a conveyancer who has been employed or engaged to manage and supervise a company's business as a conveyancer—the conveyancer or any other person has acted unlawfully, improperly, negligently or unfairly in the course of managing or supervising, or being employed or otherwise engaged in, that business; or

(b) in the case of a conveyancer that is a company—a director or manager of the company has been convicted of an offence against new section 9B.

Schedule 1—Transitional provisions

These provisions make express provision for the continuation of the current arrangements relating to the constitutions of existing companies.

The Hon. DEAN BROWN secured the adjournment of the debate.

MEDICAL PRACTICE BILL

Adjourned debate on second reading.

(Continued from 23 March. Page 1568.)

The Hon. DEAN BROWN (Deputy Leader of the Opposition): This bill, introduced by the minister this year, is built largely on the framework of what was introduced by the previous government with its Medical Practice Bill 2001, which was debated in this house. One thing that amazes me is that it has taken two years for this bill to resurface, because there are very few amendments, although a number of amendments have been made. How the minister could see two years lapse in coming to those few amendments is beyond my comprehension.

The Hon. M.J. Atkinson: A lot's beyond your comprehension.

The Hon. DEAN BROWN: When you had the bill there, all the minister had to do was go through it and, if she had specific amendments that she wanted to make, make those amendments and bring it into the house. It has taken more than two years to do that. In fact, I was appalled to find that the bill handed to the Medical Board for comment was not the bill introduced into the parliament. There were some very significant changes to that bill.

The Hon. M.J. Atkinson: That happens a lot. That means the consultation is real.

The Hon. DEAN BROWN: The board had not had a chance to comment and it was not aware that significant changes had been made. This is the Medical Board. I met with members of the board yesterday. I will come to the key issue concerning the exclusion clause that was put into 'medical service provider'. They pulled out their bill and their bill was not the one introduced to the house. I was able to point this out to them.

The Medical Board is probably the most important single board in terms of understanding and having the opportunity to comment on this legislation because, after all, this sets up the Medical Board, and it is about the operation of the Medical Board and the tribunal that effectively sits below it in terms of professional conduct.

Seeing that the framework of the legislation and the greater part of it is the same as the bill introduced by me as minister back in 2001, obviously I support the broad principle of the bill. However, there are a number of specific areas where I have reservations, and I will highlight those now. There are amendments that I will be moving as we go through the committee stage of this bill—

The Hon. L. Stevens: Can I have a copy of your amendments?

The Hon. DEAN BROWN: I am quite happy for a draft copy to be made available.

The Hon. L. Stevens: Thank you very much. It would be good.

The Hon. DEAN BROWN: I point out that the minister, in a sarcastic manner, says, 'Thank you very much.' I point out to the minister that her amendments were tabled today and it is her bill. Her staff telephoned me late Friday afternoon.

The Hon. L. Stevens: And faxed them to your house.

The Hon. DEAN BROWN: Faxed them to my home; I appreciate that. But I point out that the minister has introduced amendments. The first opportunity I had to actually speak to the chair of the Medical Board was yesterday morning, because he has been overseas. I could not put my

amendments on the table until I had had a chance actually to speak to the Chairman of the Medical Board. And thank goodness I did, because that is when we found out that the bill he had been supplied with was not the most recent edition, and neither he nor the Executive Director of the Medical Board had been told that quite significant changes had been made to the bill that had been introduced to the parliament. That I find appalling.

In terms of the specific comments I wish to make, having indicated my broad support for the legislation, the first relates to medical services providers. 'Medical services provider' means 'a person (not being a medical practitioner) who provides medical treatment through the instrumentality of a medical practitioner or medical student. . . '. That is the original definition as I introduced it. However, the minister has included the following exclusion:

. . . but does not include—
(a) a recognised hospital, incorporated health centre or private hospital within the meaning of the South Australian Health Commission Act 1976; or
(b) any other person excluded from this definition by the regulations;

I find it incredible that here we are giving a definition to a medical services provider and we are excluding, for instance, the major public hospitals. Why in the world should they be excluded from the actions of the Medical Board? In fact, it is just the opposite: the Medical Board is there to look at everyone. I would be interested in the minister's reply on this but, again, they are trying to set themselves apart and reduce the amount of scrutiny that can apply. The Medical Board is there to look at all medical services and, if they are being provided through one of the public hospitals, they should be subject to exactly the same scrutiny as any other medical provider within this state.

It would appear that this government has the mentality that it is good enough to impose conditions on everyone else but it will not impose those same conditions on itself. However, when I receive complaints—and I get an enormous number of complaints about the health system—the vast majority of those complaints (something like 95 to 98 per cent) relate to the public hospital system and often the medical treatment that people receive through the public hospital system. All hospitals should be included in this definition of 'medical services provider', and, certainly, I would argue—and I know that my colleagues would argue—very strongly for that to occur.

The next matter relates to the issue of representation on the board. The Medical Board consists of 12 people, seven of whom are doctors. I am of the view that other parties should be represented within those seven doctors. As it stands at present, only two members are elected, and I believe that number should be increased to three. There is no representation from the Australian Medical Association. That is not an industrial organisation, yet it is the most senior medical organisation in terms of helping to set standards of representing the broad future role of the delivery of services by the medical profession.

It has, I believe, a very important role in making sure that quality standards are maintained, and it has exhibited that role over many years. I believe that it should be represented and, as a result of that (without increasing the overall numbers), I believe there should be only one representative from the university. Certainly, the minister should not be appointing, effectively, three of the people to the board. Whilst the minister ultimately makes the selection, those people selected should either be elected or they should represent specific areas, with the exception of one.

I put some qualifications on that because I believe that it is important that there be a balance. I am proposing that, for instance, in making that selection, at least one should be a general practitioner. There should be at least one practitioner from public hospitals and one from private hospitals, and at least four of the doctors must be practising. I have included those qualifications in addition to those already in the bill because, first, this is all about medical practitioners who are practising, and it is important that they have that current experience, acknowledging the fact that they are practising medical practitioners. I think it is important that general practitioners be represented.

There is no guarantee at all that, under the structure as contained in the bill, even a general practitioner would be included, yet that is absolutely crucial. Likewise, whilst there is a guaranteed position for someone from the public health system there is no guaranteed position for someone from the private health system, which, again, seems to reflect the warped view this government has in terms of how it will favour one system as opposed to the other. We know that the government has a fundamental hatred of private hospitals and private health insurance, and that is reflected in everything the Labor Party does throughout Australia.

The Labor Party would like to have for itself all the money that goes out in government rebates for private health insurance. It wants to remove choice from within the health system. It is interesting because the best health systems around the world are in those countries that offer choice and allow people to make their provisions.

Some comments made earlier today highlighted that, increasingly, when people look at the demands of the health system they will need to make sure that there is adequate funding. Therefore, those who can afford to pay for their own health cover should be doing so.

I am a very strong advocate for private health insurance; it has served this country extremely well. Those countries which have it and which have a significant population have a higher standard of care because it takes the pressure off the public health system for those who cannot afford it. I am a very strong advocate of the public health system and having universal access to it. For those people who can afford private health insurance, I am a strong advocate in their taking it out.

Debate has occurred amongst various groups as to whether or not the bill should include medical students. I considered that in great detail in 2000-01 when introducing the bill. The minister has continued that position, and I support it. I believe it is important. The view being increasingly adopted around Australia is that medical students are required to be registered. Some issues need to be dealt with. For instance, they do not have business addresses and, as drafted, the bill requires them to have a business address. In fact, they do not have a business address, so I believe some amendment should be made in that respect. Most medical students, particularly those who are undertaking graduate programs, for example, at the Flinders Medical Centre, are now doing early clinical work. There is value, therefore, in having these medical students formally registered. Even though they are registered as medical students they are still having direct contact with patients.

There are a number of other minor amendments which I will not go through now but which, I believe, further improve the bill. I stress that they are not of huge substance, but I

think they are important, and, certainly, I will move those as we go through.

Another issue I want to pick up relates to communicable disease, particularly blood-borne disease. I put a very stringent standard on this issue in the 2001 bill. People raised the issue with me, as did the medical profession and the AMA; they said that they thought the standard I imposed was too stringent from the point of view of requiring, effectively, an annual test. I have considered that and am willing to accept the point of view that what I had proposed in the 2001 bill was too much of an impost. At the same time, it is very important that we are able to assure patients that they are being treated in a safe manner. As part of that safe treatment, it is also very important that a surgeon who has some highly infectious blood-borne disease does not do invasive surgery. It might be HIV, one of the strains of hepatitis, or something like that. There has been media coverage on this issue that dealt with a situation in a country town and that asked whether that doctor was safe, in terms of practising.

As it stands, the Medical Practitioners Act does not give the Medical Board the powers necessary to be able to give those sorts of assurances. The minister has introduced a number of measures that are certainly an improvement on that situation—and I acknowledge the fact that it is an improvement—and they are covered under clause 49, clause 53(3)(a) and also clause 86. However, I believe that they still do not give the assurance that the public wants and still do not protect the public if, in fact, there was a medical practitioner who even suspected that they had a blood-borne infectious disease but did not wish to disclose it. As a result, the public could be put at ongoing risk.

I think that we have to be very practical in the way that we apply this. The Medical Board would be able to identify the group of people most likely to be at risk of a blood-borne disease—it may be a medical practitioner who is using injectable drugs, for example, or some other similar circumstance. Where the Medical Board has evidence that a doctor is participating in a form of activity that potentially puts them at risk of contracting a highly infectious blood-borne disease—and drug taking is the most obvious one—I believe that the Medical Board should be given the power to require a blood test be taken by the medical practitioner involved. It is a significant step further than what the minister has done.

I acknowledge that the minister has put up a bill with a number of measures, but some of those measures only apply at the point of registration or re-registration and, therefore, a doctor who is mid-term between registrations could be identified as a medical practitioner at high risk. I believe that in those cases the Medical Board needs to have its powers strengthened to be able to ascertain that. I stress that this does not become a blanket cover—which was the problem with what I proposed in 2001—but I believe that the minister should seriously look at my proposed amendment. It gives the Medical Board the power, where it has reasonable evidence to suspect that a doctor may be at risk of an infectious blood-borne disease, to require a test to be done.

I have looked at that power in relation to the circumstances in Barmera, and I believe that it would have detected what was occurring if it had been brought to the attention of the board. Of course, it has to be brought to the attention of the board, but I think that everyone accepts that. But if it were brought to the attention of the board, for the first time it would give it the power to require that blood-borne disease tests be carried out.

That covers the main issues that I wish to deal with. I have made some other minor amendments in terms of, for instance, self-incrimination under clause 82. I have changed the wording slightly back to what it was in the 2001 bill. I believe that that bill gave slightly greater protection against the medical practitioner having to self-incriminate when giving evidence. I believe, Mr Acting Speaker, that as a lawyer you would appreciate the significance of that point. The clause was drafted after considerable consultation with the legal profession in 2001, and I think that there is merit in going back to that definition rather than accepting the new definition. Even though the difference between the two is not great, I believe that the proposed amendment gives greater protection.

With those few comments, I indicate my support for the bill and look forward to getting into the committee stage so that we can deal with the detail of the amendments.

Mr MEIER: Mr Acting Speaker, I draw your attention to the state of the house:

A quorum having been formed:

Mrs REDMOND (Heysen): It is my pleasure to be given the opportunity to make a brief contribution on this bill. I do not have a lot to say about it but I did want to add just a little because I do have some concerns, which I have no doubt the deputy leader has already raised with the house, regarding the make-up of the board as proposed under the bill.

At the moment, the minister proposes that this board will largely be established by the minister's appointment. There are seven doctors—only two of them being elected at large, with the remainder being appointed by the minister—and they are to represent the public health system, separately the Adelaide University and Flinders University, and another by ministerial appointment. It seems to me that the AMA is quite legitimate in its request to have at least one—and I would think at least two—representatives on the board.

I have been on the Stirling Hospital board for over 20 years, and I have dealt with a lot of doctors in that time. I know the views of the doctors who practise in the private profession when it comes to the status and understanding of the doctors who practise, basically, only within the Public Service. In fact, it is a bit like our Attorney-General and his inability to understand the reality of practising law in the real world. He might know a lot about the law in many ways—no doubt, he is a very good student—but he does not understand much about being a practising lawyer.

Mr Goldsworthy interjecting:

Mrs REDMOND: He never was one. Similarly, I believe that the doctors who are to be represented on this board need to come from amongst the ranks of the practising doctors rather than simply being appointments from universities and the public health system and by ministerial appointment. In that regard, as I understand it, this bill will not deal with the hospitals at all. It will deal only with the doctors and not the public and private hospital sectors that should be represented by this bill. It seems to me that there are some issues about the way in which the minister proposes to structure this board and the areas that it will cover. I understand that the concerns I expressed have also been expressed, to some extent at least, by both the AMA and the Medical Board in this state. I certainly think that their concerns need to be listened to.

I indicate that I would be happy to support some changes to the legislation. In particular, I think it is important to remember that GPs are a vital part of our health service. My

understanding, in broad terms, of the minister's Generational Health Review (which was prepared by John Menadue) is that the idea is that we will move our medical money away from acute hospital care and more towards primary and preventive care in the community—out at the coalface. If that is to be the focus of the way in which our whole structural change is headed, as discussed by both the health minister and the Treasurer earlier this afternoon during the debate on the censure motion, it seems to me only sensible that there be at least one GP so that we have representation from that coalface sector within the tribunal that is being set up.

I understand that this bill is very similar in many ways to the bill that was previously introduced by the Liberal government: it is really this structure that is the main difference. It seems to me that there are good reasons why the structure should be as I indicated: with at least two people from the AMA and several elected by doctors, and at least one being a GP. That is the only comment that I wish to make on the terms of the bill.

Ms THOMPSON (Reynell): I rise to support this bill, which has been a very long time coming. I recall that the previous minister made some efforts to introduce a medical practice bill. There were some significant difficulties with that bill but the minister, following extensive consultation with the profession, has been able to address those difficulties. The important one, of course, relates to the issue of communicable diseases. My recollection of the earlier bill was that it required the notification of such diseases regardless of the circumstances of the practitioner involved. Certainly, it is very important, in terms of confidence in the health system, that members of the public know that people who are treating them are safe to do so. However, it is also important that we do not send underground people suffering from certain diseases.

All the evidence about the success of the containment of AIDS in Australia, for example, in contrast to the situation overseas indicates that it is important that we do not set up situations where someone might be tempted to hide their condition. The provisions now before us allow for a consideration of each situation and whether or not the communicable disease from which a practitioner suffers is likely to affect the health of patients. Not all practitioners engage in intrusive practices (and that is where there is the most risk), and those who do not engage in such practices can treat their disease quite differently. That is one of the key differences with the previous bill.

Another difference is that the bill now covers medical students. That is because, of course, an increasing role is played by medical students (as is the case with so many students of different professions) in getting their early practice. It is very important that medical students who are working in various roles in our hospitals are covered by the same sorts of registration provisions as are registered doctors.

The bill also enhances the accountability provisions in relation to the Medical Board. It makes it consistent with the provisions of the Nurses Board, which is very important. It is useful that, whatever profession is being considered in registration provisions, as many of the provisions as possible are the same. There may be occasions when a particular profession has different requirements but, in general, it is useful for the same sorts of accountability processes to be applied through the medical area. Those are the main points of the bill.

I am concerned that the Health and Community Services Complaints Bill is still to be finalised. That bill provides an important piece of companion legislation to the Medical Practice Bill. It was introduced quite some time ago and has proceeded very slowly through the course of debate. I understand that it has now been finalised in the other place but that we will be required to consider it further because there are significant amendments. I believe that, once these two pieces of legislation have been passed, it will be much easier for patients who consider that there has been some problem in their treatment to determine what course of action to take.

The whole system will be more accountable, more transparent and more user friendly and, hopefully, we will not have people saying that the only option for them to pursue when they are not satisfied with their treatment is to sue. We all know that the rise in medical indemnity insurance costs has been incredibly detrimental to the community, and I see that a comprehensive framework of legislation to enable the community to be confident about the probity of the medical system and also to enable them ready access to lodging a complaint when something goes wrong will greatly enhance the system and, hopefully, result in decreased insurance premiums in the not too distant future.

The Hon. L. STEVENS (Minister for Health): I want to thank everyone who has made a contribution to the debate on this very important bill. I am very keen to see it pass through the house as quickly as possible, but obviously dealing with the issues. It is a very important bill indeed because, as we all know, it regulates the medical profession—doctors of all persuasions, as well as students. I want to refer to comments made by honourable members in their contributions. I was concerned to hear of the issues relating to the Medical Board not receiving the most up-to-date copy of the bill, because I was certainly of the understanding that the board had received a copy. If that has been a concern to the board, I will certainly be seeking to sort out that matter. It has never been my intention not to engage in the most comprehensive consultations with stakeholders in relation to any legislation I have introduced, so I will certainly be taking that matter up with the Medical Board. If there has been an issue on my part, I will be very keen to apologise to the board and ensure that that hitch does not occur again.

The deputy leader made a number of points, and I am pleased that he has indicated overall support for the bill. As he said, it is based largely on a bill he brought before this house just prior to the last election. I remember very well that that bill fell over on the issue of communicable disease, which was something this government took up in a very comprehensive way when it came to office, and I will refer to that issue a little later.

In relation to the issues he raised about medical service providers, I have only just received the deputy leader's amendments, so I have been unable to look at them in any serious way. In fact, he has just handed them to me from across the chamber. The deputy leader has two pages of amendments, and first of which relates to the point he made about exempting recognised public and private hospitals from the provisions of that clause. I will not talk about that issue in detail now because we will deal with it during the committee stage. However, we have particular reasons for that, and I will refer to that in detail.

I want to take issue with a comment made by the deputy leader which I think I took down verbatim in my notes. He

said, 'Once again, the government is trying to reduce scrutiny.' I take exception to that remark, because that is the farthest thing from my mind and from my intent in relation to legislation I have brought before this house, particularly legislation being debated in another place where the government is definitely trying to increase scrutiny. I take exception to that remark and, equally, I take exception to the remark that the government's mentality is that we expect from others what we would not do ourselves. That is completely wrong and an unnecessary comment.

I note the comments made by both the deputy leader and the member for Heysen about representation on the board, and, again, we will talk about that matter during the committee stage. We have thought about this matter very carefully, and I agree with the deputy leader that balance is important, although there are a couple of issues in relation to that. The deputy leader made the comment that the AMA does not provide representatives. I have referred to this matter on a number of occasions, and I have made my views very clear to the AMA. I am not taking issue with the very important role of the AMA, but I am saying that—

The Hon. Dean Brown: Well, give the AMA a role then.

The Hon. L. STEVENS: The AMA has a very important role. I meet very regularly with the AMA, and I have found the association to be very committed to working constructively to make positive changes. I believe we have worked well together, and I am sure that will continue. Equally, I have established productive relationships with other representative bodies throughout the health system. There needs to be consistency in the way in which we construct our new set of registration bills. The Nurses Bill, which was introduced by the deputy leader himself when he was minister, was the first bill to go through parliament which introduced the provision that elected representatives—all registered providers—were able to vote. He then continued that on with the dentists—

Ms Rankine: Is the ANF given representation?

The Hon. L. STEVENS: No, it is not in the Nurses Act. In fact, in the Nurses Act there has to be an election of representatives on the board: there is no ANF representation. That was introduced under the former minister, the member for Finniss.

An honourable member interjecting:

The Hon. L. STEVENS: The member for Finniss did set the standard. In fact, the member for Finniss then carried through that standard with the next bill, which was the dentists bill. There is no representation from the Australian Dental Association in that act. So, the deputy leader set the standard with the nurses, he carried it through with the dentists, and he wants to make an exception for the AMA. It is important that we be consistent, and I believe that the AMA understands that. It is something I have discussed with the AMA on a number of occasions, and I believe the association understands my point of view—the point of view of the government—that is, that we need to be consistent with all our groups.

We will talk about the make-up of the board later. Through the minister's nominees, three of whom are taken up by the councils of the universities and one from the public sector, the minister has the opportunity to ensure that the balance of the board is intact, that is, ensuring it includes a GP or someone from the country. That is very important, and I think the role of the minister is to ensure that that balance is across the membership of the board. It is a very important board, and it needs to make sure that it represents—

The Hon. Dean Brown interjecting:

The Hon. L. STEVENS: I wish the deputy leader would listen to me, and perhaps he would hear what I am saying.

Mr Goldsworthy interjecting:

The Hon. L. STEVENS: Well, just listen. Perhaps the honourable member could ask his deputy leader to stop interjecting, and he would be able to hear me. I think the ability of the minister to be able to appoint, to achieve balance is very important. Country representation on these boards is very important, and sometimes we find that country people are left out, and that is where the minister has the opportunity to make appointments to achieve that balance. So, I believe that what the government has put forward in terms of the representation on the board is good.

I also take exception to a remark made by the deputy leader, and I think I have it down correctly in my notes, that the government had 'a warped view favouring the public over the private sector'. It is quite true that the government has a very strong commitment to public health services, we are not into privatisation—

Ms Rankine: A vested interest, in fact.

The Hon. L. STEVENS: We fund them, so we do have a vested interest in the public health system, but I would say very strongly and firmly to the parliament, that the government believes in working in partnership with the private sector and we have demonstrated that very well since we have been in government. The private sector has been very keen to work with us, private providers have been very keen to work with us, and we are very keen to work with them. So, those sorts of statements are unhelpful. I am pleased that the deputy leader supports the issues in relation to medical students and I agree and that is why we have put it in, because we know that as part of their courses, medical students are involved in clinical practice, and therefore they should come under the purview of the board.

In terms of communicable diseases, I notice that the deputy leader said that he put forward a very stringent standard in his bill, and then he said that the AMA and the Medical Board raised problems, and that it was too much of an impost on doctors, and that was the reason that he did not pursue his original intention. The government has a different view. I knew as shadow minister that it was not only the Medical Board and the AMA—they certainly had their concerns about the deputy leader's provisions in the former bill—but considerable concern was raised by the public health sector and by experts in the field of communicable diseases that what the deputy leader put in his bill would not be a stringent standard, but a standard that would cause people not to declare a communicable disease, having the reverse effect to what the deputy leader intended in the bill.

It was not just a politician like me saying this. These were the best experts that we could contact in terms of communicable diseases and how you manage communicable diseases from a public health and a public safety point of view. We spent considerable time on this and we got all the stakeholders together. I know that this did not occur when the former minister was putting his bill together. We got them all together and later on I will perhaps tell the house who was involved—all the stakeholders from the medical profession, public health officials, and experts on communicable diseases through to the groups who represent and advocate for people with blood-borne viruses. Those people worked with us to come up with something that they believed would work in terms of the best protection that we could give the public in relation to this matter, and that is what now appears in the bill.

The deputy leader mentioned that he has a range of amendments and I have only just received them. We will try to look at them as we are going through. Obviously, it is very difficult when debating a bill to look at amendments. Whatever happens we will certainly give his amendments consideration even if we need to do so between this bill and when it appears in the upper house. I must say that it is difficult to deal with two pages of amendments that you have not seen before while running through the bill. I thank the member for Heysen for her comments; I believe I have covered them. She virtually reiterated the deputy leader's comments. I also thank the member for Reynell for her comments in support of the bill. I commend the bill to the house and I look forward to the committee stage.

Bill read a second time.

In committee.

The Hon. L. STEVENS: Mr Acting Chairman, I draw your attention to the state of the committee.

A quorum having been formed:

Clauses 1 and 2 passed.

Clause 3.

The Hon. DEAN BROWN: I move:

Page 5, lines 24 to 27—

Subclause (1)—Definition of 'medical services provider'—

Delete 'but does not include—'and paragraphs (a) and (b)

This amendment deals with the definition of 'medical services provider'. It takes the definition which was there, and which also appeared in the 2001 bill, but then deletes, 'but does not include—(a) a recognised hospital, incorporated health centre or private hospital within the meaning of the South Australian Health Commission Act 1976, or (b) any other person excluded from this definition by the regulations'. When I met with the medical board it was alarmed that this exclusion was included without its knowledge. The board was given an old bill which did not include this. As of yesterday morning the board was amazed that I raised this point. They said that this was not in their bill, and they challenged me on this point.

I showed them a copy of the bill which had been introduced into the house. They were surprised that they had not been consulted on this issue. I thought it was incredible that the government would introduce an amendment such as this without telling the Medical Board of South Australia. I think there should be no differentiation between any medical provider. All medical providers must be subject to examination and scrutiny by the board.

The Hon. L. STEVENS: 'A recognised hospital, incorporated health centre, or private hospital within the meaning of the South Australian Health Commission Act 1976' are excluded because they are covered by other quality and safety regimes via accreditation, management or licensing.

The Hon. DEAN BROWN: I find that an unsatisfactory explanation by the minister. She said 'a higher authority', but she has not said who that higher authority is. The medical board is there to examine medical issues. Whether it is a private or public hospital or a private or public clinic, they should all be subject to examination by the medical board. If ever there was discrimination of the public sector versus the private sector, this is it. They are picking on the private sector and wanting to protect and exclude the public sector, and I find that appalling. Why not make them both subject to exactly the same standards?

The Hon. L. STEVENS: Private hospitals are also excluded. I am not sure whether the deputy leader read it properly. The exclusion is for 'a recognised hospital, incorporated health centre or private hospital within the meaning of the South Australian Health Commission Act 1976'. Of course, the minister knows that there are licensing provisions in the South Australian Health Commission Act in relation to private hospitals. We are certainly not discriminating against private hospitals in this way. That argument is completely fallacious.

This relates to the definition of 'medical services provider'. The bill provides the board with the capacity to apply the powers of the bill to medical service providers. Medical service providers are persons who are not medical practitioners, but who provide medical treatment through the instrumentality of a medical practitioner or a medical student. As I said, the bill excludes hospitals, health centres and private hospitals within the meaning of the South Australian Health Commission Act 1976, because they are subject to other licensing and safety and quality regimes.

The bill also provides the capacity for any other person to be excluded through regulation, although—and I make this very clear—exemptions under regulations would need to balance the public interest in having medical service providers subject to the bill and ensuring that the administrative burden on service providers is not onerous.

The Hon. Dean Brown: The bill does not do that.

The Hon. L. STEVENS: Just listen and calm down. We are certainly not discriminating against the private sector, but we are saying that, by virtue of the South Australian Health Commission Act, other mechanisms cover those bodies in relation to quality and safety.

The Hon. DEAN BROWN: I do not accept that explanation, and in fact the minister by her own admission has indicated that, by way of regulation, she can exclude and do so in a partisan manner. Nothing in paragraph (b) says 'any other person excluded from this definition by the regulations'. The minister could easily exclude other classes of people and not those in the private sector. There is the very specific power for the minister; and besides, this is all about protecting the standards within the medical profession. Why not have it open to everyone? To give a minister the power by way of regulation to say, 'Thou shalt be exempt from this bill' is an outrageous provision when you are dealing with professional standards.

The interesting thing is that when I met with the Medical Board they were absolutely alarmed at this. As I said, they did not even know about it until yesterday morning, and I would have thought that, at the very least, we should adjourn this matter if the Medical Board has not had a chance to be fully briefed. Certainly, I would be interested in what their reaction is if in fact there has been a further briefing by the government. However, they indicated to me that they did not support this exclusion put by the government at the last moment.

The Hon. L. STEVENS: I take absolute exception to the statement that the minister in a partisan manner would go about exempting people from this regulation. That is an outrageous statement by the deputy leader—one must be careful of judging others by oneself! It is an outrageous statement and one to which I take exception. This is a matter that would be determined by regulation. We all know that process involves the scrutiny of the parliament, so I would say to the deputy leader that we have a second stream. I note his comments that the Medical Board says that they were unaware of this. I will give an undertaking that, because I have only just been made aware of this matter now in relation

to the Medical Board, I will speak with the board and, if there needs to be any change, I am happy to look at that again when it goes to the upper house. However, at this point in time the government will not support the amendment.

The committee divided on the amendment:

AYES (21)

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

NOES (23)

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

PAIR

Brokenshire, R. L.	Weatherill, J. W.

Majority of 2 for the noes.

Amendment thus negatived.

The Hon. DEAN BROWN: I move:

Page 5, after line 31—

Subclause (1)—After the definition of medical treatment insert:

nominated contact address of a registered person means an address nominated by the person for the purpose of service of notices and documents under this act;

The bill as it stands requires a medical student or a retired medical practitioner who wishes to be registered to put down their business address. A retired medical practitioner will not have a business address, nor will a medical student. There is no point in putting in legislation that is meaningless. I propose that there be a nominated contact address and, obviously, for a practising medical practitioner that will be their business address; for a medical student it may be something other than that because they may regularly move home, being a student. It may be their university address. I propose that there should be a nominated contact address and would ask the minister to support that. It is simply making sure that the legislation is workable and makes sense. There is no point in telling a university student to put down a business address when they do not have one.

The Hon. L. STEVENS: The government will accept the amendment but I want to point out to the deputy leader that the intent of the bill was that the address of the students would have been the university at which they were studying. We are happy to accept the amendment.

Amendment carried; clause as amended passed.

Clauses 4 and 5 passed.

Clause 6.

The Hon. DEAN BROWN: I move:

Page 8—

Lines 19 to 30—

Subclause (1)(a)—delete subparagraphs (i) to (iii) (inclusive) and substitute:

(i) One is to be nominated by the minister; and

(ii) One is to be selected by the minister from a panel of three medical practitioners jointly nominated by the councils of the University of Adelaide and the University of South Australia or, if the councils are unable to agree as to the persons to be nominated, from panels of three medical practitioners nominated by each council;

(iii) Two are to be selected by the minister from a panel of five medical practitioners nominated by the Australian Medical Association (South Australia) Incorporated; and

This is about the composition of the board. I have already raised this matter. I believe that of the seven doctors one should be nominated by the minister; one should be selected by the universities; two should be selected by the minister from a panel from the AMA; and the other three should be elected.

The Hon. L. Stevens interjecting:

The Hon. DEAN BROWN: That is the next amendment, but I am willing to debate them both here. To debate one without the other does not make sense. Instead of two being elected there will be three elected. One of the members from the government benches raised the point about the Nurses Board. Five of the six people on the Nurses Board are elected, whereas here only two of the seven are elected. It highlights the point that this is all about the minister putting on the board people that the minister wants to put on, without any broad representation. I support very strongly, first, that the AMA is recognised, as it should be. It is not an industrial body, which is what otherwise would have been the case with the Australian Nurses Federation.

It increases the number of doctors who are actually elected from two to three, and I think it is a much more balanced approach. I also highlight the fact that in subsequent amendments I deal with the issue that there should be a guaranteed balance that one of the medical practitioners should work in the public health system; one should work in the private health system; one should be a general practitioner; and at least four of them must be practising practitioners. There are some qualifications there already, mainly that one must be a man and one a woman. I believe that this maintains those qualifications but goes further and puts a far better balance onto the board. I advocate very strongly that this amendment that I am dealing with here, amendment No. 3, which is also amendment No. 4 and No. 5, is largely dependent on those. Certainly amendment No. 4 is.

It is an important issue and I think it is inappropriate to slight the AMA by saying that it should have no representation whatsoever. I believe that it is appropriate that it be asked to put forward a panel of names, and so the minister would select the two representatives from the AMA from that panel. I think the AMA, as medical associations do throughout the world, has a very significant role within our community. It is recognised internationally and should be recognised by this legislation.

The Hon. L. STEVENS: I have just been handed these amendments, and it is quite difficult when you are working through the bill but, unfortunately, the deputy leader did not give me the consideration that I gave him in relation to being able to look at the amendments and do it without the bill running through at the same time. However, we get used to that.

The Hon. Dean Brown interjecting:

The Hon. L. STEVENS: That is just ridiculous. You have had four weeks to do this, thank you very much. The

government does not accept the amendments of the deputy leader, and there are a number of points I want to make. I am just trying to read this through. In relation to the universities, the deputy leader has watered down the representations from the universities, rather than having one from a panel of three persons nominated by the council of the University of Adelaide and one from Flinders. These are the teaching bodies, the medical schools in South Australia. I believe that it is important to have representatives from both those medical schools. Even though the minister has to nominate the person, they come from a panel of three persons nominated by each of those councils.

Obviously, they have input into selecting the panel of three that go to the ministers. I believe that the balance that has to occur in the bill is the responsibility of the Minister for Health to determine, and I believe that it is important that the minister has that ability to place people from country areas, from various parts of the medical profession who have not been thrown up, as it were, by the other provisions in this clause by the universities and their nominations, and by who actually win the elections that are conducted. I think it is very important that the minister has the umpiring role to look at what comes out of the election, what comes out of the university nominations, both on the gender balance issue and also making sure you have a spread of the medical practitioners across the disciplines, and also in terms of country and city and other considerations we need to take into account.

I have also dealt with the issue of the AMA. I have spoken about that with the association. I believe that, certainly, the association has listened to me and understands where I am coming from in relation to that. I have just been reminded of something. I know that the opposition is concerned about GP representation. We work very closely with GP organisations. I think that we have the closer relationship with GP organisations—it is certainly a closer relationship than the previous government had. I would like to say that they comprise the biggest number of medical practitioners in the state.

I would be very surprised that, when this election occurs, the GPs would not be using their strength of numbers; and perhaps the situation will occur where the minister has to balance them with a specialist. Who knows? We have done a lot of thinking about how to structure the board so that it is fair and so that it takes into account all of the interests that need to be represented; and, of course, to maintain the consistency and the standard of the earlier boards established by the member for Finniss from which he now wants to move away. The government does not support the amendment.

The Hon. DEAN BROWN: Clearly, the minister intends to support my amendment No. 5, because she has just used the very argument that I have used on that amendment. I come back to amendment No. 3 with which we are dealing, and also amendment No. 4, which will increase from two to three the number of people being elected and so will increase the chance of a general practitioner being elected. It certainly makes it more democratic.

I find it interesting that the minister was willing to accept five of the six being elected to the Nurses Board. However, with respect to the Medical Practitioners Board, the minister is willing to have only two of the seven elected. That is a real contrast, and it shows the thinking of this government. The government is willing to give the nurses an election so that five of the six nurses are elected but it is not willing to give the doctors the chance to be elected, and is therefore restricting that board very severely to only two out of seven. There is a huge contrast between these two acts, yet both of them are registration acts. Clearly, therefore, the minister is wanting to discriminate against the AMA. She is wanting to discriminate against doctors being able to elect more people to the board. I might add that if the minister wants to put two on for the universities she can do so because she still has one that is nominated by her. The minister can put on a second university person if that is her wish. The flexibility is there to do that. I support the amendment.

The Hon. L. STEVENS: I want to make the point, too, that the deputy leader has made a distinction between the Nurses Act and this act. Of course, we do not have the issues of the universities and their representation on the Nurses Board. As I say, I am keen to have the best possible board in relation to this matter. At this point, I will stick with the work the government has done on this. Again, I say that I find it quite interesting that the deputy leader marches into the house and drops all the amendments in front of us.

The Hon. Dean Brown interjecting:

The Hon. L. STEVENS: Excuse me, sir. Let me get this on the record once and for all. The deputy leader had the government amendments faxed to his house last Friday.

The Hon. DEAN BROWN: I point out that I received the government's amendment about one hour ago. I do not know what the minister is complaining about.

The CHAIRMAN: Is the member for Finniss suggesting taking amendments Nos 3 and 4 together, because they are integrated?

The Hon. DEAN BROWN: If the chair is willing to do that.

The CHAIRMAN: Not amendment No. 5, though?

The Hon. DEAN BROWN: Amendments Nos 3 and 4.

The Hon. L. STEVENS: I am not sure about that. I want to look at that. I have to look carefully at these amendments because I have had them dropped on me.

The CHAIRMAN: We can do them separately, if members wish.

The Hon. DEAN BROWN: They are contingent upon each other.

The CHAIRMAN: I will put amendment No. 3. If that does not get accepted, the next one is redundant.

The committee divided on the amendment:

AYES (20)

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

NOES (26)

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

NOES (cont.)

White, P. L. Wright, M. J.

Majority of 6 for the noes.

Amendment thus negatived.

The Hon. DEAN BROWN: I move:

Page 9, after line 4, subclause (3) insert—

(3a) The Minister must, when nominating or selecting medical practitioners for appointment as members of the Board, seek to ensure that, as far as practicable, the membership of the Board includes—

(a) at least 1 medical practitioner who works in the public health system; and

(b) at least 1 medical practitioner who works in the private health system; and

(c) at least 1 medical practitioner who is registered on the general register (but not also on the specialist register); and

(d) at least 4 medical practitioners who are currently practising medicine.

This is really the amendment that the minister herself was arguing for to ensure that there is balance. The requirement for balance is very short at present. This makes sure that there is one from the public sector, one from the private sector, one who is a general practitioner and four who are currently practising medicine.

The Hon. L. STEVENS: The government does not support the amendment. The issue of balance is more than which sector a person comes from. Of course, that is a factor but as well as that the issue is of skill, expertise and experience.

Amendment negatived; clause passed.

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

Clause 7.

The Hon. L. STEVENS: I move:

Page 9, line 31—

Subclause (5)—after 'expires' insert:

, or the member resigns,

I think this is something that the Medical Board asked us to do. It was feedback from the Medical Board, I believe, just to make it fairer.

Amendment carried; clause as amended passed.

Clauses 8 to 12 passed.

Clause 13.

The Hon. L. STEVENS: I move:

Page 11, after line 39—

Insert:

(e) to take into account the needs of particular classes of persons who may otherwise suffer disadvantage in the conduct of those processes.

This amendment provides an additional principle to guide the board in regard to how complaints are to be handled. The clause is designed to ensure that the administrative processes established by the board for handling complaints will be structured so that it is a relatively easy matter for people from a range of cultural and socioeconomic backgrounds to make a complaint. The Medical Board of South Australia has never received a complaint from anyone who has identified as an indigenous Australian. This amendment is designed to make it clear that the processes adopted by the board should not deter people from making a complaint.

Amendment carried; clause as amended passed.

Clauses 14 to 17 passed.

Clause 18.

The Hon. DEAN BROWN: I move:

Page 13, lines 35 to 39—

Subclause (1)(b)—delete paragraph (b) and substitute:

(b) by summons signed on behalf of the board by a member of the board or the Registrar, require the production of any relevant documents, records or equipment and, in the case of a document or record that is not in the English language, require the production of—

(i) a written translation of the document or record into English; and

(ii) a certificate signed by a translator approved by the board certifying that the translation accurately reproduces in English the contents of the document or record; or

The purpose of this amendment is to make sure that, if a translation is done, because of the nature of what you are dealing with, it is very important to make sure that it is an accurate translation. You can have certified translations, and this is to make sure that it is a certified translation—in other words, that it is done by a translator who is appropriately qualified. The translators are required to undergo examinations. To my knowledge, it is used in the legal process and in a lot of other areas here. I am simply saying that, because of the nature of this and, I think, to make it more friendly for those who do not speak English as their first language, we need to ensure that there is an appropriate translation of what has been said and the nature of the complaint. I think I am right in saying that the Medical Board highlighted to me the need for this measure. It was concerned that there not be any misunderstanding in language of the nature of a complaint.

The Hon. L. STEVENS: The government will support the opposition's amendment. I might add that we had contemplated something like this ourselves. We have been advised by parliamentary counsel that this might result in some inconsistency with other processes. Given the fact that we both agree, we support the amendment.

Amendment carried.

The Hon. DEAN BROWN: I move:

Page 14, lines 13 to 17—subclause (3)(b)—delete paragraph (b) and substitute:

(b) having been served with a summons to produce—

(i) a written translation of the document or record into English; and

(ii) a certificate signed by a translator approved by the board certifying that the translation accurately reproduces in English the contents of the document or record,

fails, without reasonable excuse, to comply with the summons; or

This amendment refers to exactly the same issue; again, it is to do with translations.

Amendment carried.

The Hon. DEAN BROWN: I move:

Page 14, line 19—subclause (3)(c)—before 'interrupts' insert 'wilfully'.

This matter was raised with me by the AMA, and it is to do with the powers of the board. Clause 18(3) provides:

A person who—

(c) misbehaves before the board, wilfully insults the board or one or more of the members in the exercise of the member's official duties, or interrupts the proceedings of the board; or

A person guilty of such an offence may be fined up to $10 000 or six months' imprisonment. That is a pretty severe penalty for a professional person to be put into gaol for any length of time. The words 'or interrupts the proceedings of the board' ranges from both minor to severe, and the AMA was very concerned that there should be some qualification put on what constitutes an interruption that would attract such a severe penalty. Therefore, the word 'wilfully' was inserted so that the interruption is not just failing to turn up for a

meeting, or being late for a meeting, or something like that, but wilfully and deliberately trying to interrupt the board. This is designed for when there is a deliberate and significant act by a person. I am not trying to water down the operation of the board in any way whatsoever. However, I agree with the AMA that, because of the nature of the penalty involved, there needs to be some qualification of the interruption of the proceedings of the board.

The Hon. L. STEVENS: The government accepts the amendment. However, I do not believe it needs to be there. I believe the presiding member of the medical board, which is a very significant board in this state, would understand and appreciate reasonableness in the administration of this clause. However, if the deputy leader does not agree, I am happy for the word 'wilfully' to be inserted.

Amendment carried; clause as amended passed.

Clauses 19 to 24 passed.

Clause 25.

The Hon. DEAN BROWN: I move:

Page 16, lines 5 and 6—Subclause (1)(b)—Delete paragraph (b) and substitute:

(b) 8 must be medical practitioners appointed by the Governor, and of these—

(i) 6 are to be nominated by the minister;

(ii) 2 are to be selected by the minister from a panel of 5 medical practitioners nominated by the Australian Medical Association (South Australia) Incorporated; and

This amendment deals with the composition of the tribunal. Presently, the tribunal is made up of the President, who is the Chief Judge of the District Court, or a judge of that court nominated by the Chief Judge, eight medical practitioners appointed by the Governor on the nomination of the minister, and four other persons. I propose that, of those eight medical practitioners, six shall be nominated by the minister and two shall be selected by the minister from a panel of five medical practitioners put forward by the AMA. This is exactly the same as the provision contained the bill I that introduced in 2001.

Whether you like it or not, throughout the whole of Australia the AMA is involved in setting standards for a significant number of clinical and practice issues, which are adopted Australia-wide. Therefore, I believe there is some value in having some AMA representation. As members can see, it is only two of the eight representatives. As this body is involved in this area, I believe it is important that it be part of this. It still leaves the minister with the right to choose from a panel of five and to select the other six.

The Hon. L. STEVENS: The government does not support this amendment. I see it as being in the same tranche of amendments that the Deputy Leader was moving earlier in relation to the AMA. We do not accept that position. The Deputy Leader makes the point that the AMA is involved in a number of groups, in terms of clinical practice and other very important issues. Well, so are a lot of other doctor groups, not just the AMA, and that is not detracting from the AMA at all but to say that there are other players as well as them. We want to be more inclusive so, for the same reasons as we opposed previous clauses, we oppose this one, and we note that in other states the AMA is not in this position—that is my advice.

Amendment negatived; clause passed.

The Hon. DEAN BROWN: Given that my last amendment was lost, I will not proceed with my further amendment. It would have insisted that, of the AMA's representation, one had to be a man and one had to be a woman.

Clause 26.

The Hon. L. STEVENS: I move:

Page 16, line 33—
Subclause (4)—after 'expires' insert:
, or the member resigns,

This amendment clarifies the functioning of the tribunal after a member's term expires or they resign. It ensures that if a member of the tribunal resigns they can continue to hear the matters which they have been involved with. This will ensure that the full range of views are available in determining the final decision on the matter. This amendment is designed to overcome a practical problem which has arisen and which may arise in the future where a member of a particular class, for example, a legal practitioner or a lay member, may be moving interstate or can no longer serve on the tribunal. In order for a new member of that class to be appointed, the serving member must resign first. This amendment will allow the serving member to finalise the cases under consideration, although technically they have resigned. It will not apply to anyone who is removed from the board.

Amendment carried; clause as amended passed.

Clauses 27 to 30 passed.

Clause 31.

The Hon. DEAN BROWN: I move:

Page 17, line 31—
Subclause (3)(a)—delete' business' and substitute:
nominated contact
Page 18, lines 2 and 3—
Delete 'personal or business' and substitute:
nominated contact

These amendments deal with the nominated contact address rather than a business address. It is an issue that was raised earlier. I think the minister accepted it earlier and I presume that she will accept it here.

Amendments carried; clause as amended passed.

Clause 32 passed.

Clause 33.

The Hon. DEAN BROWN: I move:

Page 19, line 15—
Subclause (1)(d)—after 'civil liabilities' insert:
(other than public liability)

This deals with the issue of what type of insurance medical practitioners are required to have. Paragraph (1)(d) provides that they cannot practise unless exempted by the board and that they must be insured or indemnified against civil liabilities in a manner and to an extent approved by the board. I believe that there should be an obligation on medical practitioners to have medical indemnity insurance, and I want to ensure that is upheld. I suspect that is what the minister has in mind. However, one could rightly read into this that they are required to have public liability insurance. I do not believe that is necessary at all. I think we ought to draw a distinction between medical indemnity insurance and public liability insurance.

Public liability insurance is invariably insurance related to premises—falling down the front steps or something like that. They are risks that doctors or any other professional take upon themselves. It has nothing to do with the quality of care. I believe there should be an exclusion here for public liability insurance, but certainly understanding, and very strongly supporting, that they must have appropriate medical indemnity insurance.

The Hon. L. STEVENS: The government does not support this amendment. We will examine this more closely between this house and the other place. As a result of the time

we have had to look at the amendment, I make the comment that we would expect anyone running a business to have public liability insurance, and it would be prudent to do so. We will oppose this amendment now, but we will look at it and get legal advice between now and the other place.

Mrs REDMOND: While I accept the minister's comment that such insurance would be prudent, could the minister explain the relevance of such insurance to the practice of medicine?

The Hon. L. STEVENS: The first and basic premise for the practice of medicine is, first, to do no harm. I understand that as a result of the comment I have just made we will not support the amendment now. We will look at the amendment and get some legal advice between this house and the upper house.

The Hon. DEAN BROWN: In supporting the amendment, I highlight that the AMA has raised concern in this area. It is vague. Quite rightly, one could argue that what is there now is vague. I think it is inappropriate that that vagueness exists. The Medical Board will not know whether it is expected to require medical indemnity insurance and/or public liability insurance—or just one. It may be that a doctor is practising from home. He may practise in other people's premises. Therefore, why should he have to have public liability insurance? I think there is a classic example.

Mrs Redmond interjecting:

The Hon. DEAN BROWN: He could practise at the Stirling hospital. The medical provider has to have the insurance, but he must be covered by medical indemnity insurance. There have been a number of other circumstances where the actual dispensing of the medical treatment may not involve any premises at all. As public liability insurance invariably covers premises, or something physical, it could be quite inappropriate. For instance, is a doctor who lives at home but practises in a range of areas to take out public liability insurance on premises which he does not own and to which he may make only an occasional visit? What if he is doing home visits? Who is providing the public liability insurance while the doctor is doing a home visit? In fact, would he be able to get public liability insurance under those circumstances to cover other people's premises? I doubt if he could. I believe that this needs to be looked at, because I think that the way it currently exists is impractical.

The Hon. L. STEVENS: The examples that the deputy leader raised could be contained in exemptions. We have the deputy leader's comments on record. I have undertaken that we will certainly work with the AMA, and I am sure that we will resolve this and come to a sensible outcome. Again, it is very difficult to deal with this when the amendments were tabled only minutes before we began. I have not the ability to seek Crown Law advice at this point. I will take on board the comments of the deputy leader, and I will talk with the AMA and anyone else who has an interest and we will come back to the upper house with a resolution. We oppose the amendment.

Amendment negatived; clause passed.

Clauses 34 to 54 passed.

Clause 55.

The Hon. L. STEVENS: I move:

Page 32, lines 22 to 25—Subclause (2)—Delete paragraph (b) and substitute:

(b) the board may, if of the opinion that it is necessary to do so to protect the health and safety of the public—

(i) suspend the registration of the person the subject of the proceedings; or

(ii) impose conditions restricting the person's right to provide medical treatment, pending hearing and determination of the proceedings.

This amendment enables a broader range of conditions to be imposed on a person while the matter is investigated and heard. This is designed to provide natural justice to registered persons who are subject to a complaint. Without this amendment the only course of action open to the board, if they consider the person's practice should be restricted while the investigation is carried out, is to suspend their registration for a month. This amendment allows other conditions such as restrictions on the type of practice they can undertake to be imposed. This provides the board with options so that each case can be assessed on its merits and appropriate conditions imposed.

The Hon. DEAN BROWN: I support this amendment. If it had not been moved by the government I was going to move it, because there does not need to be a suspension. I can recall a number of occasions where, in fact, the Medical Board has imposed conditions. A classic example could be a doctor with HIV, and the Medical Board can impose conditions on the practice of that doctor, and that is that they cannot undertake invasive surgery. There are clear definitions around what is invasive surgery. The previous view that because someone has HIV they cannot practice medicine is wrong, but conditions can be imposed that protect the patient and the public and also protect the doctors.

Amendment carried; clause as amended passed.

Clauses 56 to 59 passed.

Clause 60.

The Hon. DEAN BROWN: I move:

Page 35, lines 37 to 41—

Subclause (1)(b)—delete paragraph (b) and substitute:

(b) by summons signed on behalf of the Tribunal by a member of the Tribunal or the Registrar, require the production of any relevant documents, records or equipment and, in the case of a document or record that is not in the English language, require the production of—

(i) a written translation of the document or record into English; and

(ii) a certificate signed by a translator approved by the Board certifying that the translation accurately reproduces in English the contents of the document or record; and

Page 36, lines 14 to 18—

Subclause (2)(b)—delete paragraph (b) and substitute:

(b) having been served with a summons to produce—

(i) a written translation of the document or record into English; and

(ii) a certificate signed by a translator approved by the Board certifying that the translation accurately reproduces in English the contents of the document or record,

fails, without reasonable excuse, to comply with the summons; or

These amendments deal with translation into English, and it is the same principle agreed to previously.

Amendments carried.

The Hon. DEAN BROWN: I move:

Page 36, line 20—subclause (2)(c)—before 'interrupts' insert 'wilfully'.

This comes back to the same point mentioned earlier in terms of wilfully interrupting.

The Hon. L. STEVENS: We accept it.

Amendment carried; clause as amended passed.

Clauses 61 to 78 passed.

Clause 79.

The Hon. DEAN BROWN: I move:

Page 43, line 5—Subclause (1)—after 'civil liabilities' insert '(other than public liability)'.

This is exactly the same principle and I ask the minister to look at this at the same time as she looks at the previous amendment.

The Hon. L. STEVENS: The government does not support it, but I give the same undertaking.

Amendment negatived; clause passed.

Clause 80.

The Hon. L. STEVENS: I move:

Page 43, after line 23—

After its present contents (to be designated as subclause (1)) insert:

(2) If a person has claimed damages or other compensation from a medical services provider for alleged negligence committed by the medical services provider in connection with the provision of medical treatment, the medical services provider must—

(a) within 30 days after the claim is made; and

(b) within 30 days after any order is made by a court to pay damages or other compensation in respect of that claim or any agreement has been entered into for payment of a sum of money in settlement of that claim (whether with or without a denial of liability),

provide the board with prescribed information relating to the claim.

Maximum penalty: $10 000

The effect of this amendment is to ensure that medical service providers provide information to the board about any negligence related claims that are made against them. Currently the bill requires registered persons to provide the board with information regarding any negligence or other claims made against them. This is so that the board can determine whether action needs to be taken against registered persons who have numbers of claims against them. This amendment extends this provision to medical service providers, so that the board is able to determine whether a medical service provider has a pattern of claims which requires further examination. Again we argue very strongly that this is in the public interest in terms of covering not only practitioners but also medical service providers.

The Hon. DEAN BROWN: I support this amendment, but this is the very valid argument why the exemption under the definition of medical service provider should be removed. The minister claimed that they are registered by a higher authority—whatever that might be. The fact is that the same situation should apply for all medical service providers. This is the very issue where there is huge discrimination. The minister is saying that we will do this on some medical service providers but do not worry about us—namely, the government sector—because we will be free. That is the very thing that absolutely infuriates people. I have been travelling throughout the north of the state and witnessed the anger that exists against government being big brother—we know better; what applies to you will not have to apply to us.

I understand that the government has built facilities in the northern part of the state without DAC approval. We saw that and all the locals talk about it. The government erects huge instrumentalities by the locals' standards, yet a private individual complained to the member for Stuart and me about his experience when trying to add on one room. Here is another classic example of the government's saying, 'We are above the rest of the community.' Therefore, if the minister is serious about this, she will ensure that there are no exemptions for medical service providers at all. If she persists with that exemption, then this is the classic case of where one rule applies to government and one rule applies to others.

The Hon. L. STEVENS: I thank the deputy leader for the speech and for also supporting the amendment. We have already been through this once before. It has nothing to do with the argument private versus public. I mean—

The Hon. Dean Brown interjecting:

The Hon. L. STEVENS: If the member for Finniss reads the clause, he will notice that private hospitals—

The Hon. Dean Brown interjecting:

The Hon. L. STEVENS: Sir, I have the call. I have already given an undertaking earlier in this debate that, between the two houses, we will look at what the member for Finniss has said. I do not think there is any need for us to get hysterical or overwrought at this point in time. I thank the member for his support.

The Hon. DEAN BROWN: I support this amendment, but if in the other place the minister still persists with the exclusion from the definition of medical service providers, this amendment will not continue to have my support. Whilst the minister says that the exclusion covers private hospitals—and I understand that—a hell of a lot of other private sector medical service providers are not covered under that exclusion, yet most government ones are. This is another case of the government acting as the almighty government. One has only to ask the member for Stuart, because he battles this day in and day out in his area. I was there last week with the member for Stuart listening to those sorts of complaints. I can understand that many people throughout the state would equally share those complaints—and I hear them every day. All I ask is that the same conditions apply to the government, and every other service provider, whether they be public or private hospitals, large or small.

Let us look at where the largest number of claims are made—government hospitals. A huge number of claims are made in government hospitals. Therefore, why should they not be subject to exactly the same scrutiny by the Medical Board as another medical service provider who has probably never had a claim against them? My argument is that if ever there was an area where there is public concern it is the public sector. We must open up to scrutiny.

The Hon. L. STEVENS: I have given a clear undertaking, and I think that people, both inside and outside this chamber, know that, when I give an undertaking, I carry it through—and I will.

Amendment carried; clause as amended passed.

Clause 81 passed.

The CHAIRMAN: For the benefit of members, I point out that it is wise to acknowledge the member for Finniss's point that, if the committee had moved on significantly from having declared a vote the wrong way, it would be necessary to rescind that vote. However, it has been accepted practice for many years that, if confusion occurs and it is drawn to the chair's attention reasonably promptly, it is clarified by putting the question again.

Clause 82.

The Hon. DEAN BROWN: I move:

Page 44, lines 13 to 21—

82—Self-incrimination and legal professional privilege

(1) It is not an excuse for a person to refuse or fail to answer a question or to produce a document or record as required under the Act on the ground that to do so might tend to incriminate the person, or make the person liable to a penalty, or on the ground of legal professional privilege.

(2) If a person objects to answering a question or to producing a document or record on the ground that the answer, or the document or record, might tend to incriminate the person or make the person liable to a penalty, then—

(a) in the case of a person who is required to produce a document or record—the fact of production of the document or record (as distinct from the contents of the document or record); or

(b) in any other case—the information furnished in compliance with the requirement is not admissible in evidence against the person in proceedings (other than proceedings in respect of the making of a false or misleading statement or perjury) in which the person might be found guilty of an offence or liable to a penalty.

(3) If a person objects to answering a question or to producing a document or record on the ground of legal professional privilege, the answer, or the document or record, will not be admissible in civil or criminal proceeding against the person who would, but for this section, have the benefit of the legal professional privilege.

This amendment relates to the issue of self-incrimination and replaces the clause in the bill. This amendment was originally in the 2001 bill. I believe that it has been carefully drafted. There is not a huge amount of difference, but there is some, and I have moved it only after considerable discussion with crown law. The attorney-general of the day and crown law were involved, and their advice was that they preferred my version of self-incrimination, and that is why I have moved this amendment.

The Hon. L. STEVENS: The government does not support the amendment at this time. The member for Finniss's amendment is very technical and wordy. He has just said that there is not a huge amount of difference between what he is suggesting and what I am suggesting. We read this amendment only tonight, and our version appears to be tighter than that moved by the member for Finniss.

I undertake to seek advice from crown law. The member has obviously had the benefit of their advice, but I have not as I did not see this amendment until tonight. The government does not support the amendment at this time, but it gives the undertaking to take advice and to consider it between the houses.

Amendment negatived; clause passed.

Clauses 83 to 85 passed.

Clause 86.

The Hon. DEAN BROWN: I move:

Page 45, after line 4—after subclause (1) insert:

(1a) Without limiting the generality of subsection (1), if the Board has reason to believe that a medical practitioner or medical student has exposed himself or herself to a risk of contracting a blood-borne infection, the Board may require the practitioner or student to submit to a blood test.

This amendment deals with blood-borne infectious diseases. As I said in my second reading contribution, I acknowledge that there are three different clauses that all have to be read in conjunction with this amendment, and they certainly give added protection compared with the legislation at present. However, there is still a significant weakness in the act. I have discussed it with the Medical Board and the Medical Board supports this type of amendment.

Let me give an example. The Medical Board is invariably dealing with doctors who have a drug problem or an alcohol problem, and it identifies the nature of the problem with those doctors. If they have an injectable drug problem, the risk of a blood-borne disease will be significantly higher. It is under those circumstances that they would like to immediately be able to ask for the medical practitioner to undertake an appropriate test. First, there has to be circumstantial evidence that this medical practitioner has exposed himself or herself to a risk and, therefore, we are dealing with only a very small number of cases.

They are cases that are already before the board and where the board has the power and, quite rightly, should exercise this additional power of cases it is investigating for other purposes. I suggest that the 'other purposes' happen to be drugs. I believe that this is the way you will then overcome the Barmera case. The power that you have there at present will not overcome the Barmera case. If someone lodged a complaint with the Medical Board about a particular doctor, say the so-called case of Barmera, under the powers they have you could not test whether or not that doctor had a blood-borne disease, whereas under this power you can immediately.

The Hon. L. STEVENS: The government does not support this amendment. The shadow minister is quite wrong, because as it stands the clause provides:

(1) The board may, for any purpose associated with the administration or operation of this act, require a medical practitioner or medical student, or a person who is applying for registration or reinstatement of registration to—

(a) submit to an examination by a health professional, or by a health professional of a class, specified by the board; or

(b) provide a medical report from a health professional, or from a health professional of a class, specified by the board,

(including an examination or report that will require the person to undergo some form of medically invasive procedure).

(2) If a person fails to comply with a requirement under subsection (1), the board may suspend the person's registration until further order of the board.

So, the government does not support the amendment. We believe that this is very robust. It provides 'for any purpose associated with this act'. I want to say again that this whole issue of medical unfitness to practise was the issue that caused the previous minister's bill to falter. We had very comprehensive discussions with a whole range of stakeholders and here they all are: the Health and Human Diversity Unit of the Department of General Practice at the University of Adelaide; the AIDS Council of South Australia; the South Australian Advisory Committee on Hepatitis, HIV and Related Diseases; Flinders Institute of Health; the Communicable Diseases Control Department of the DHS; the HIV and Related Disorders Unit; the Hepatitis C Council of SA; the Royal Australasian College of Physicians; the Royal Australian and New Zealand College of Obstetricians and Gynaecologists; the Royal Australasian College of Surgeons; the AMA; the Medical Board of South Australia; the South Australian Medical Officers Association; my office, which was just there to coordinate it; and the Policy Grant Strategic Planning and Policy Division of the DHS.

Those people had a number of meetings and came up with a position. They all signed off on it, and it was based on the best public health principles available from those experts. It talked particularly not of singling out a class of persons but of making laws that are robust and that apply to all persons. That is what we have in clause 86. It is a very robust clause as it stands and, in fact, it can do exactly what the shadow minister is saying, but it can do those things for any person in relation to this act. The government does not support this amendment. We believe it is a backward step.

The Hon. DEAN BROWN: I am not in any way watering down the information that the minister has: I am ensuring that there is a very specific provision in terms of blood-borne disease so that at no stage will there be any doubt about it. I discussed this with the Medical Board yesterday, and they supported the proposal that I put forward. They agreed with

it and, in fact, thought that I had raised a very valid issue. Therefore, I have moved the amendment and support it very strongly.

Amendment negatived; clause passed.

Clauses 87 and 88 passed.

Clause 89.

The Hon. DEAN BROWN: I move:

Page 46, line 11—
Subclause (1)(b)—after 'known' insert:
nominated contact,

This clause again relates to address and, based on what the minister said previously, I assume that she will accept it.

The Hon. L. STEVENS: Yes, I do.

Amendment carried; clause as amended passed.

Remaining clauses (90 and 91), schedule and title passed.

Bill reported with amendments.

The Hon. L. STEVENS (Minister for Health): I move:

That this bill be now read a third time.

I am pleased that we have been able to progress this bill quickly and efficiently, for which I thank the deputy leader. I thank all the stakeholders who have been involved in discussions in relation to this bill. I do not know whether I mentioned the Health Consumer's Alliance, and I thank them also.

Also, I pay tribute to Professor Peter McDonald, who chaired the group in relation to the medical unfitness to practice clauses and the issues surrounding blood-borne viruses and medical practitioners. Professor McDonald is an eminent and internationally recognised leader in infectious diseases. He has outstanding expertise and pre-eminence among providers and consumers alike in this field. I thank him for his work in leading the round table discussions with all the stakeholders and allowing us to resolve that issue. I inform the parliament that I have put Professor Peter McDonald on the Medical Board because he brings extensive expertise and pre-eminence in that area.

I thank all stakeholders. I look forward to the debate in the upper house. Hopefully, it will come to a conclusion fairly quickly. I thank the deputy leader and all members who took part in the debate. I thank parliamentary counsel for its work to this point. However, there is a bit more work to go.

Bill read a third time and passed.

STATE PROCUREMENT BILL

Adjourned debate on second reading.

(Continued from 25 February. Page 1519.)

Mr WILLIAMS (MacKillop): I indicate to the house that, on behalf of the opposition, I am the lead speaker on this bill. I note that, in the intervening period, not only has the opposition's shadow spokesperson on this bill changed but also the government's minister. I hope that we are able to get through this matter in an expeditious manner. In speaking to this bill, first, I indicate that the Liberal Party will not be opposing it. I say that because, considering the bill placed before the parliament and comparing it with the act which it supersedes (the State Supply Act 1985), and in spite of the previous minister's claims, there are very few changes.

When introducing the bill, the minister stated that this is a key plank in the government's 10-point plan for honesty and accountability. I say to the house that this is like everything else the government has done over the past two years: long on rhetoric and very short on action. If the government is serious that this is an important piece of legislation for honesty and accountability in this state then the government, by its own actions, acknowledges that there were no problems with honesty or accountability in the procurement processes of the former government.

Again, I say that because the bill introduces minimalist changes, and none of them purport to increase honesty or accountability. The minister talks about an independent board working with the government—no change. That is what the previous legislation delivered. The minister talks about a robust framework for accountability—no change. That is what the previous legislation delivered. The minister talks about the independence and integrity afforded to procurement through the oversight of a body independent of government—no change, because that is also what was delivered by the State Supply Act.

The government's plan for honesty and accountability is nothing more than a smoke screen. It is nothing more than the rhetoric to which I have just referred. It is nothing more than trying to paint a picture that this government is somehow fixing problems—problems, which, in fact, never existed. The government would have us believe that it is somehow doing things differently than any other government in the history of this state or even the history of this universe. The minister says that the changes this bill introduces will ensure that the model of an independent board working with the government remains relevant.

The reality is that the bill makes no difference to the independence of the board and makes no difference to the functions the board is to carry out in a real sense. The minister even said, when talking about the historical context of procurement legislation in this state, that the board's key role (that is, the existing board) was to achieve the objectives of the act. He thereby acknowledges that the State Supply Act 1985, although not having an objectives clause, had implied objectives. The minister spoke in a general sense about a movement away from risk averse models to models seeking appropriate management of risk as a trend that is happening across Australia and in other jurisdictions.

In my opinion, this is a most appropriate progression. Four years of service on the Public Works Committee of this parliament has taught me that government procurement suffers because of the aversion to risk, that is, it suffers in the sense that governments pay substantial penalties because they are risk averse.

A few weeks ago I was at the InvestSA seminar in Port Lincoln run by the Property Council, and one of the key speakers was from Macquarie Bank, which—both in England and in this country—specialises in PPP's (private public partnerships). One of the highlights I took out of that address was that the speaker acknowledged what good investments these projects were for that bank. In fact, he suggested that they could achieve a return on capital of over 20 per cent through PPPs.

Governments entering these PPPs are obviously making a saving; otherwise, they would fund these projects from their own resources. It thus follows that governments are paying far too much for projects. If Macquarie Bank can come in as a middleman—as the broker and financier—for a project and cream off in excess of a 20 per cent return on capital, that merely demonstrates to me that governments are currently achieving very poor value for money on behalf of taxpayers.

I point out at this juncture, however, that this bill will do nothing to change the state of play in regard to construction projects. The briefing that I had from departmental officers

was that construction—and this is what we are talking about in regard to PPPs—will be excluded from this act by regulation.

The minister acknowledges that the procurement board should be a single body to manage procurement on behalf of the government in a way that is at arm's length from the government. He goes on to say:

> A single body operating at arm's length from the government delivers confidence to the community and suppliers that procurement decisions are not inappropriate and influenced by political processes.

The reality is that this bill makes no changes. The bill does establish a new board, which has nine members instead of six. Its functions are slightly different but, by and large, remain unchanged. It will remain a single body to manage procurement on behalf of the government and it will remain at arm's length from government.

The minister highlighted the concerns that were raised by the government when in opposition in 2001 and said that those concerns included:

> No comprehensive across government policies and procedures (as to the conduct of procurement processes structured and focused on each step in the procurement cycle process) had been developed.

This bill will make no difference and, in fact, such policies would be made independently of the act, not by the act. He goes on to say:

> There were insufficient institutional controls on the process of government contracting to ensure that government contracting was competitive, open, transparent, and truly accountable.

I question where and how he believes that the State Supply Act was deficient in this area and how or where he believes this new bill will address those hypothetical deficiencies. Institutional controls certainly are not in the bill. The bill merely gives head powers; as I keep saying, basically the same head powers as are already in the State Supply Act.

The minister also complains that the definition of 'goods and services' enables certain activities to be placed outside the scope of the act. All of these matters are controlled by the regulations. The new bill makes no differences to the regulation making powers.

The minister then went on to make some comments about the role of the procurement process in the Motorola contract, suggesting that preferences and incentives were provided to Motorola, and talked about allegations of partiality, favouritism, patronage and corruption. Since the minister has raised this matter—and I point out to the house that this was the previous minister, not the current minister who, I hope, is more aware of the facts—I suggest that the previous minister go back and look at the historical record, particularly the Crammond Report, and read the correspondence appended thereto. Hopefully, he will then develop some understanding of exactly what happened in regard to the Motorola contract and will realise that no such things as he alleged occurred with the awarding of the Motorola contract to establish the software centre in Adelaide.

When in opposition the Labor Party sought to undermine every project that the Liberal government brought to Adelaide and South Australia. Ever since that time, and particularly since being in government, the Labor Party has endeavoured to rewrite history with the object of convincing the voting public that the previous government did not achieve positive outcomes for South Australia.

I challenge the previous minister and any other minister in this current government, or any other member of the current government, to say that South Australia would be better off without Motorola. In fact, if Motorola had been given an inducement to set up its software centre in South Australia, that would be exactly the process that the minister claimed he hopes to achieve by this new bill. Again, I quote from the minister's second reading, where he said:

> It is further recognised that suppliers as an integral part of the procurement process ought to have a responsibility to contribute to the government policy objectives.

The minister wants it both ways. Unfortunately, that is not possible.

I will now briefly compare each new clause of the new bill with the old State Supply Act to highlight my claim that there are minimal changes between the State Supply Act 1985 and the State Procurement Bill 2004. Obviously, the short title and the commencement dates are different and clause 3, which introduces objects into the new act, is a new clause. Clause 4—Interpretation—obviously will be different, but it is a similar interpretation of the words used in both acts. Clause 5 provides that the act does not apply to certain organisations. In the new bill, it is local government and the universities; in the old act it was local government, universities and the Motor Accident Commission and a couple of instrumentalities that are no longer held under government.

Clause 6 establishes the board (as did section 6 in the existing act). The only difference is that the board is now declared to be a body corporate. Clause 7 sets up the membership of the board. There are nine members including the CEO under the new act; there were six under the old act; and the membership is very similar. Clause 8 talks about the conditions of membership and they are very similar. Clause 9 says that no act of the board is deficient due to a board vacancy which is virtually identical to clause 10 in the existing legislation. Clause 10 talks about allowances and expenses to board members. It is almost identical to section 12 of the existing legislation. Clause 11 talks about the board staff and, again, it is almost identical to section 18 of the existing legislation.

Clause 12 talks about the functions of the board and has the same intent as section 13 of the existing legislation. It introduces three new subclauses but it still has the same intent. Clause 13 (and this is a new clause) establishes committees under the new act, which were not able to be established under the existing legislation—I will come back to that. Clause 14 is the one that allows delegations under the act. It is almost identical to section 19 of the existing legislation, but obviously it includes delegations to any committee set-up. Clause 15 sets up the board's procedures and is almost identical to section 9 of the existing act except that subclauses (5) and (6) provide for meetings of the board to be held using electronic conference facilities and for resolutions of those meetings to be validated using electronic means.

Clause 16 is new but it applies to the common seal because the new board will be a body corporate. Clause 17 talks about procurement for prescribed public authorities or other bodies. It is virtually identical to section 16 and has the same intent as the existing clause. Clause 18 binds public authorities to directions of the board and is very similar to clause 14. Subclause (2) of new clause 18 is identical to subsection (2) of section 15 of the existing legislation. Clause 19 talks about the responsibility of principal officers. It is very similar to the old section 14A, the only difference being that the new clause captures (as well as principal officers) any delegate of the principal officer, and that extends the obligations to all public servants.

Clause 20 is about ministerial directions to the board and has the same intent as section 17 of the existing legislation with the addition that any ministerial direction must be tabled in both houses of parliament within six sitting days. Clause 21 is about accounts and audits; it is virtually identical to section 21 of the existing act. Clause 22 prescribes that an annual report must be made. It is almost identical to section 22 of the existing act. Clause 23 allows for the making of regulations, and again is virtually identical to section 24 of the existing legislation. Schedule 1 of the bill repeals the State Supply Act 1985 and, in doing so, causes all members of the current Supply Board to vacate their positions to allow for a new board to be appointed.

As I have pointed out, there are very few new measures introduced in this bill. The minister argued that it is important that the bill has an objects clause. I will come to that in a moment, but remind the house that the minister acknowledged the existing act implies objects, and that the implied objects are not dissimilar to those in the expanded bill. I will read the objects from the bill to indicate to the house that they are of no great moment. The objects provide:

3—Object of Act

(1) The object of this Act is to advance government priorities and objectives by a system of procurement for public authorities directed towards—

(a) obtaining value in the expenditure of public money; and

(b) providing for ethical and fair treatment of participants; and

(c) ensuring probity, accountability and transparency in procurement operations.

(2) The Board and the Minister must, in administering this Act, have regard to and seek to further the object of this Act.

There is nothing untoward or novel in this clause, and I would hardly believe that such a clause warrants a completely new act. I have already alluded to the opposition's concerns with clause 13, which provides for the establishment of committees. In our view, this clause is contrary to the minister's stated aims, and we will leave further discussion on this point until the third reading.

Clause 15, as I have already indicated, introduces a new concept, that of holding of meetings using remote electronic means. Again, this might be further investigated by the opposition in the third reading. Clause 19 extends the obligation of responsible conduct from a principle officer to such officer's delegate, and this in effect captures all public servants. On the surface this appears to be a sensible improvement, and the opposition thus applauds the measure but notes that the minister has made no reference to it in his second reading and consequently wonders whether the measure is addressed as a result of any real concern or mere speculation. Clause 20 adds that the ministerial direction should be tabled in the parliament. This is a measure which the opposition believes could well be applied across many of our statutes.

I also note that the government now intends to move amendments to the bill to include conflict of interest provisions within this bill. The opposition has studied the amendments provided to it and will not oppose them but again believes that the provisions are designed to achieve more a political end than good governance. The current act covers this area in clause 11. I have talked of the clauses in this act that are not in the current act, and there are principally three which introduced some changes. The only clause in the current act which is not covered in this act is clause 20, which provides funding for the workings of the act from the consolidated account.

In conclusion, I reiterate that the opposition believes that the government has seriously overplayed its hand on this matter. The house's time has been and is being taken up in a political exercise which delivers minimal changes but which is part of an ongoing campaign to build a perception that the government is doing something grand. Nothing could be further from the truth. If what I am claiming was not true, and if this matter was of some great moment and it was a serious reform, I am sure that other members would be champing at their respective bits to contribute to this debate, highlighting existing deficiencies and proudly expanding their heartfelt desire for virtuous reform. I expect the matter to now proceed expeditiously.

The Hon. M.J. WRIGHT (Minister for Administrative Services): I acknowledge the former minister for bringing this bill to the parliament and thank the opposition for their support. I reject the comments that have been made by the new shadow minister, but I also formally acknowledge and congratulate him on his new responsibilities. I will not go through this clause by clause as the shadow minister has done, but there are some significant elements in this bill which do provide for greater openness and greater accountability. I am a little surprised by the new shadow minister's cynicism about this measure. I really do not need to go any further than the objects of the act, although I will do so. This is, of course, a new clause. There are no objects in the current act but, if one looks at the objects in this bill, (and there are other examples, a few of which I will also highlight), one will see that they are as follows:

. . . to advance government priorities and objectives by a system of procurement for public authorities directed towards—

(a) obtaining value in the expenditure of public money; and

(b) providing for ethical and fair treatment of participants; and

(c) ensuring probity, accountability and transparency in procurement operations.

I draw that to the attention of the house. Subclause (2) is particularly important. It provides:

(2) The board and the minister must, in administering this act, have regard to and seek to further the object of this act.

That is a critical part of this bill. I wish to draw to the attention of the house a couple of other examples. The shadow minister said that there was little difference, and I acknowledge that there are some areas where there is no change. However, there are changes, for example, to the functions of the board. In that area, in particular, I draw to the attention of the house new clause 12(1)(c), which recognises electronic procurement systems.

I also draw to the attention of the house the responsibility of principal officers in relation to procurement operations. This is much broader than the existing act, which refers to the CEO. It is broadening it out to include the principal officers, and it also includes a reference to a delegate. That is significant in its own right. I also draw to the attention of the house clause 20(3), which provides that the minister must, within six sitting days of giving a direction, cause a copy of the direction to be laid before both houses of parliament. These are examples of honesty and accountability.

As the shadow minister said, the government will move a couple of amendments. I can go into greater detail when I get to them but they are, basically, to overcome difficulties in regard to the honesty and accountability legislation that was assented to in July 2003 to ensure that this conflict of

interest is incorporated into this legislation. We need to go back and remove the existing conflict of interest and immunity from liability provisions from all other statutes as a result of that honesty and accountability legislation. So, it is really a procedural amendment that we will be moving.

I think this is a good bill that the former minister (Hon. Jay Weatherill) brought to this house some time ago, and I think he deserves to be acknowledged for it. There are a number of elements (some of which I have drawn to the attention of the house) where there are differences and which provide examples of greater honesty and accountability. I think they are important and worthy of note, and I have drawn a few of them to the attention of the house. We appreciate the opposition's support and we thank them for it.

Bill read a second time.

In committee.

Clauses 1 to 11 passed.

Clause 12.

Mr WILLIAMS: I have a number of questions on this clause. By my reckoning, there are three new parts to this clause, and I will ask one question on each of them, and it will basically be the same question. Clause 12(1)(a) provides:

> The board has the following functions:
> (a) to facilitate strategic procurement by public authorities by setting the strategic direction of procurement practices across government;

Can the minister explain where the existing legislation (the State Supply Act) was deficient and why it is necessary to have such a clause?

The Hon. M.J. WRIGHT: My advice is that this clause seeks to reflect more the strategic role of the board and to link it to the board's functions under clause 3, the objects of the act. That is really the key, or at least one of the keys. The role of the board is to reflect that, and one of the requirements is that the board be strategic in its thinking and relate that to clause 3, the objects of the act, which is a very pivotal clause in this legislation.

Mr WILLIAMS: The opposition does not have a problem with that. It goes to comments I made in response to the previous minister's comments about the Motorola contract. The opposition does not have a problem with procurement being strategic. In fact, the opposition believes not only that it should be strategic but also that it has been strategic in the past. Likewise, new paragraph (c), which to my mind is completely new, provides:

> to develop, issue and keep under review standards for procurement by public authorities using electronic procurement systems;

I do not have a problem with that, but I wonder why it is necessary to specify that we need a separate clause to allow us to undertake procurement using electronic procurement systems. Does the existing act prevent that from happening?

The Hon. M.J. WRIGHT: Probably not—in regard to the honourable member's question about whether the current act excludes that from occurring. What we are attempting to put into the legislation is for the board to take account of the dramatic changes that are happening all the time throughout the world electronically, and one of the factors that relates to all of this is which jurisdiction you are in. I think it probably does no more than ensure that the board takes account of this.

Mr WILLIAMS: I appreciate the frankness of the minister's answers. The only reason that I am raising this matter is that, when I pick up an act of the Parliament of the Commonwealth of Australia, I get very concerned about the number of words that are used to describe or prescribe anything. I hate to think that we might end up writing our statutes in a similar manner and become overly prescriptive. My last comment refers to paragraph (f), which I think is straying into that overly prescriptive area. If it is not a tautology, it is certainly unnecessary.

Mr HANNA: I asked the minister during question time a few weeks ago how the government could help Mitsubishi by procuring more Mitsubishi cars. The state government is one of Mitsubishi's major customers, and obviously it would help a lot if it bought more Mitsubishi cars. The minister answered in respect of some agreement, national or even including New Zealand as well—I am not sure—that stipulated a level playing field between the various car manufacturers so that effectively Mitsubishi could not be given favouritism. I would like the minister to give more detail of that restriction on government, and then I have two questions about it. One concerns the interrelationship of such an agreement with the board—in other words, can the board influence these agreements and can the board contravene such agreements? Secondly, are such agreements going to be affected by the free trade agreement with the United States?

The Hon. M.J. WRIGHT: The honourable member is right. He did ask me a very good question some time ago about Mitsubishi. I think I had a similar question yesterday from the opposition—not as good a question but, nonetheless, a similar type of question. I think it is worthwhile sharing with the committee what I said a few weeks ago (when the member for Mitchell asked this question) and also again yesterday. Obviously, I do not have the figures in front of me, but in regard to government procurement the reference the member for Mitchell makes is correct. The Australian New Zealand Government Procurement Agreement is basically a free trade agreement. It is binding on all states. All states are signatories to this agreement. Basically, it says that we will not discriminate between suppliers when it comes to government procurement.

Having said that, one of the questions asked by the member for Mitchell was about the impact on the board and whether the board has to follow this. The board must have regard to this, but another point worth making is that we have a representative on the Australian Procurement Council; so we can influence what is actually in that agreement. The other point I make (before I come to the member for Mitchell's second question about the US agreement) is that when we undertake government procurement we have to follow that binding agreement to which I referred. The point which I made a couple of weeks ago to the member for Mitchell and which I repeated again yesterday is that in relation to Mitsubishi vehicles I think we have purchased around 18 or 19 per cent in the year to date. In the general market I think it is a little under 9 per cent. Obviously, it is well above what they are selling in the market place, and we all hope that they can increase that.

I made the point yesterday that providing we work within the Australian New Zealand Government Procurement Agreement—because obviously we cannot break the rules—if we can find ways—and I have asked my department to explore options—it may be that there are ways within that agreement in which we can look to provide some additional purchase of Mitsubishi vehicles. Obviously, that needs to be looked at carefully and within this agreement. In relation to the US agreement, the advice I have received is that the purchase of government motor vehicles is specifically excluded from that agreement.

Clause passed.

Clause 13.

Mr WILLIAMS: My queries come before the minister's amendment. This clause establishes committees which sit under the board, and the opposition has a couple of concerns about that. We do not have concerns with the setting up of committees per se, in fact, we believe that many benefits could accrue to the procurement process by having committees where the board can call in specific expertise in certain areas and the like, and lessen the workload of board members in certain instances. We do not have a problem with that. However, we have a problem with the fact that committees can be set up under paragraph (a) to advise the board on any matter or, (b), to carry out functions on behalf of the board; that is the part with which we have concerns. The opposition believes that the functions and powers delivered to the board under this act should remain with the board, and not be delegated to a committee. I think that if the committee is to carry out its work it should advise the board, and accountability for the final decision should, in fact, lie with the board rather than the committee.

The second part of my question highlights this and takes it a step further. Subclause (2) provides that membership of the committee will be determined by the board and may, but need not, consist of or include members of the board. Again, that highlights the problem to which I alluded where the lack of accountability between a committee of the board which performs functions conferred on the board by this act, but does not have a member of the board on it, places it at arm's length from the board. There are two issues. One is why it is deemed necessary that committees set up under the board should have the power to carry out functions on behalf of the board. Considering that, why is it not deemed necessary that such committees should, at least, have one and possibly even more members of the board on them?

The Hon. M.J. WRIGHT: I thank the shadow minister for his questions. Clause 12(1)(b) seeks to develop issues and keep policies, principles and guidelines relating to the procurement operations of public authorities under review. It may well be that you want a committee to do some policy work; they are not actually going to do the procurement. It is also worth pointing out that clause 13(2) provides that the membership of the committee will be determined by the board and may, but need not, consist of or include members of the board. So, it does not exclude them. The shadow minister expressed concern about paragraph (b) with respect to carrying out functions on behalf of the board.

Clause 13(4) provides that the procedures to be observed in relation to the conduct of the business of a committee will be as determined by the board. So obviously the board would have a critical role. In some cases the board may choose to have a board member on there, but there may be other examples, depending on the nature of the work, where the board may make a commercial or policy decision that there are good reasons for there not to be a board member. Clause 13(4)(a) says 'as determined by the board'. Despite the concerns expressed by the shadow minister, it is largely covered in that way.

Mr WILLIAMS: Notwithstanding what the minister has just said, he did omit to read clause 13(4)(b), which provides:

(b) insofar as the procedure is not determined under paragraph (a)—as determined by the committee.

That to me says that the procedures to be observed in relation to the conduct of the business of a committee, if the board does not determine that procedures will be restricted to a certain area, are such that the committee can go off and set its own procedures. It raises concerns in my mind. In the second reading debate the former minister claimed that one of the benefits of the bill is that we would have a single body operating at arm's length from government.

A further issue comes up in the next clause, and I will highlight that issue now. These committees need not include any member of the board but may be delegated any of the functions or powers under this act other than the power of delegation. The stated desire of the government is to have a single entity at arm's length from the government, but its stated desire that the procurement process be more open and accountable than apparently exists under the State Supply Act 1985 I contend will be significantly reduced. It flies in the face of the claims the government makes about openness and accountability.

I cannot for the life of me see why you would have all three of those things, that is, that the committee can carry out the functions of the board, that it need not have any member of the board and that it may have all the delegations of the board. If you put all three in line you end up with a committee with a very truncated form of accountability flowing back to the board.

I agree with the minister that if you have only one of those things occurring you may not have a serious problem, but the way the bill is worded it certainly allows you to have all three occurring at the same time with the committee being given authority to carry out the functions of the board, it having no member of the board on the committee and being delegated with all the functions and powers that flow to the board by virtue of this act. That flies in the face of the claims the government made when it introduced this bill.

The Hon. M.J. WRIGHT: It needs to be read in conjunction. The clause provides:

(4) The procedures to be observed in relation to the conduct of the business of a committee will be—

(a) as determined by the board, and,

(b) insofar as a procedure is not determined under paragraph (a)—as determined by the committee.

This is talking about procedure. I do not think it is anything to be hung up about. If the board wanted the committee to do a piece of work, it would request it to do so.

As to how the committee would go about that, in some cases they may determine that themselves. However, they would still have to have regard to the objects of the act. Subclause 4(b) is not something on which to get hung up, because the honourable member needs to read it in conjunction with subclause 4(a). We are talking about 'in so far as a procedure is not determined by the board as determined by the committee'. It is meant to be no more than how they may go about work that the board has asked them to do. As I said, they would also have to work according to the objects of the act about which I have spoken earlier and which is pivotal to this legislation.

Mr WILLIAMS: Again, my question involves both clauses 13 and 14, because I envisage a situation where you have, as I said, all three of these things falling into place together; that is, a committee is set up to carry out some functions, no members of the board are on it and it has been delegated all the powers and functions under this act. In those circumstances, because the board is a body corporate and can be sued in its own right, where does that responsibility fall with regard to a committee? If the committee can have all the powers and functions of the board, yet the committee is not a body corporate, what happens if someone has a serious complaint against an action taken by the committee? I note

in the minister's amendment that he wishes to delete subclause (5). Can the committee be sued as if it were a body corporate?

The Hon. M.J. WRIGHT: The advice I have received is that the board has the ultimate responsibility. Because the committee is being asked to undertake this work by the board, the board would have the responsibility. I do not concur that a committee would have these sorts of powers to which the shadow minister refers, but I am happy to obtain further advice for the shadow minister on this issue—it does seem to concern him—as this goes between the houses. However, that is the advice I have received, and I have no reason to suspect that that advice is not correct. I move:

Page 7, lines 17 to 19—
Delete subclause (5)

I did touch upon this in my earlier contribution. This contribution will cover both amendments, but obviously I will move the other amendment at the appropriate time. The reason for this amendment is that we were advised that there was no need to include conflict of interest and immunity from liability provisions in the bill, as these matters will be covered by the Statutes Amendment (Honesty and Accountability in Government) Act 2003, which was assented to in July 2003. That act contains provisions that will uniformly cover all members of government, corporate entities and advisory bodies.

It has subsequently been discovered that legislation must be drafted to remove the existing conflict of interest and immunity from liability provisions for all other statutes before the uniform provisions in the Statutes Amendment (Honesty and Accountability in Government) Act 2003 can be enacted.

This is really procedural. We need to include this in this bill until that other exercise occurs. As I said, the conflict of interest is covered in the Statutes Amendment (Honesty and Accountability in Government) Act 2003, but we now have to remove the conflict of interest from each of the existing statutes so that the conflict of interest provision in the Statutes Amendment (Honesty and Accountability in Government) Act 2003 is able to apply in the future.

Amendment carried; clause as amended passed.

Clause 14.

Mr WILLIAMS: Again, I reinforce the point I made earlier and take up something that the minister said a few moments ago in reply to my earlier contribution. He said that the ultimate responsibility lies with the board, and that is why I said that I had to speak about clauses 13 and 14 together. Clause 14(1) provides:

(1) The board may delegate any of its functions or powers under this act other than this power of delegation.

Subclause (2) provides that a delegation can be made to a committee established by the board. A few moments ago, the minister said that the ultimate responsibility lies with the board and that he did not have a problem with the provisions of clause 13. However, the reality is that, if the board sets up a committee, it can give it all the powers and functions that are given to the board under this act. So, all of a sudden, all the responsibility lies with the committee. My reading of this clause is that the committee can make decisions, which never have to be ratified by the board. The board may never know what the committee is doing, because the committee may not have a member of the board on it. That is the nub of the issue that I have been raising for the last few minutes.

The Hon. M.J. WRIGHT: The point I make is similar to that which I made earlier: that is, the committee must have regard to the objects of the act. In addition, any board obviously goes about its functions and responsibilities depending on the size of the procurement. For example, a $20 million procurement may be handled in a different way from a much smaller one. However, it is important that the delegations about which the shadow minister is concerned are read in conjunction with the objects of the act.

My attention has just been drawn to clause 20(1), which may provide some comfort to the shadow minister. It provides:

(1) The minister may give general directions in writing to the board about the performance of its functions.

If the board was undertaking activities with which the minister of the day was uncomfortable, clause 20(1) provides the power of direction to which I just referred.

Mr WILLIAMS: I take on board what the minister is saying. The opposition is trying to help the minister here. The minister indicated earlier that between the houses he would look at some of these matters that I am raising, and I urge him to do that. If he were to go back and look again at clause 13, he could build into the bill some lines of accountability. The previous minister in his second reading explanation talked extensively about providing for accountability. In these two clauses put together the bill may open up some avenues that some minister or government in the future might rue, and that is what I am trying to protect against. When we are passing legislation in this place, it is very difficult to look at a situation that might arise in the future.

The legislation that will be repealed by this act has been on the statute book for some 19 years, and I am sure that things have happened in recent times that were not contemplated by those who passed that legislation back in the mid-eighties. That is why I am a bit concerned about this and merely trying to help the minister. My concerns are quite genuine.

The Hon. M.J. WRIGHT: I appreciate that and I do think that is a genuine comment. I will obtain some additional information for the shadow minister between the houses. Part of what the shadow minister is concerned about relates to these committees not having a board member, so perhaps between the houses we could have a discussion about that. It may well be that in the other place we will entertain an amendment of that nature, for these committees to have a board member. That is something we could look at.

The Hon. D.C. KOTZ: I support the shadow spokesperson on this aspect of the bill and want to reinforce the fact that there is considerable concern. I think I heard the minister say that some of the decisions made by a committee could be multimillion dollar decisions, and the major concern that I would have, as I am sure the shadow spokesperson has already put, is the manner in which the board's delegations are handed over to a group of people who are purely, apparently, appointed through the board, and that all the delegation and power of that board is handed over to the individuals on this committee. I know that the minister believes that the objects of the act need to be adhered to by the individuals, no matter whether they are board members or committee members, but the mere fact that there is no definitive circumstance where decision making by the committee actually necessitates the board having a second look gives great concern.

In terms of the manner in which this clause has been put together, it is almost that the committee has actually become a de facto board by the mere fact that the delegation of power is absolute in terms of how it is placed in this legislation. So, no matter how much respect or integrity may be shown by individuals who are assumed to carry out those roles, when there is no other means of scrutinising the decisions that may be made by this supposed de facto board, it does and would cause concerns, particularly when we are talking about huge amounts of dollars in a state procurement bill where probity and integrity are obviously the mainstays. It could, in fact, embarrass the board, never mind the minister, if decisions were unknown in some circumstances to the board itself. There is certainly no process in this legislation that would enable that to happen. So, I think the concerns expressed by the shadow spokesperson are quite significant. If the minister takes this on board, there is probably a broader range to be looked at rather than just a board member on that committee. But the absolute delegation of power would also be of very significant concern.

The Hon. M.J. WRIGHT: We have probably spoken about this for a while now, but any delegation is not given absolutely and would be in accordance with board policies. But, it may be that we are able to pick up some of the concerns that have been expressed in regard to this by the earlier point that I made, that is, by maybe working on an amendment in the upper house to get a board member on these committees. But the delegation would have to be in accordance with board policies.

Clause passed.

Clause 15.

Mr WILLIAMS: A novel approach has been introduced here and I do not know that it has been introduced in any other legislation in this state, and it will be interesting to see how it works in practice. Indeed, I would like the minister to give the committee some indication of why he has introduced this measure and what circumstances the government sees as necessitating it. I am talking principally of subclauses (5) and (6), which are new and did not appear in the old act, and which allow for meetings to be held where the participants are remote from each other utilising electronic means.

I would like the minister to address some specifics. Subclause (5) talks about the setting up of a meeting and how the meeting might take place, but how is a quorum taken and how does the person supposedly chairing the meeting know that he has a quorum at all times? That is just one of the practical issues, and I would like to be reassured that the minister has looked at all these matters.

The Hon. M.J. WRIGHT: I thank the shadow minister for his question. Certainly, these things have been looked at. As the honourable member would be aware, with the advent of video and telephone conferencing, more of this is happening. It is perhaps more of a concern with respect to telephone conferencing, which has been and is being looked at with regard to continual voice presence. There is a need for a quorum of five, as the shadow minister would be aware. Obviously, if video or telephone conferencing were to be used, it would be the responsibility of the chair to give a guarantee that a quorum was present. If you were not able to do so you would not be able to conduct a board meeting in that way. I do not imagine that it would be as big a problem with respect to video conferencing as it may be with telephone conferencing; but, certainly, telephone conferencing procedures are being looked at. Taking into account how quickly we are moving electronically it would be possible to be able to deliver on that. If it is not, you would not do it.

Mr WILLIAMS: Again, I had a heightened sensitivity to this matter when I read the minister's proposed new clause 22A, 'Immunity from personal liability'. I think that heightens any potential problems here because, certainly, when someone is in a room with their colleagues at a board meeting everyone knows who is or is not present and it is recorded in the minutes. When you are using some form of electronic process to hold a meeting, I think it is important that everyone knows who is or is not participating in the meeting at any particular time. Subclause (7) provides that the board must have accurate minutes kept of its meetings. Again, that brings to mind an issue: how can you have an accurate minute that says who is or is not at the meeting at any particular time unless you have some way of knowing exactly who is participating in the meeting?

Mr Hanna: Teleconferences happen like that every day of the week, Mitch.

Mr WILLIAMS: But something might happen at a board meeting and a particular member might claim that they were not even there. The rest of the board members do not necessarily know who is and who is not participating in the meeting. I know that it is out of order to reply to interjections but, supposedly, this bill is about accountability. I am just asking the minister how he can guarantee the accountability to the committee.

Clause passed.

New clause 15A.

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

Page 8, after line 21—

Insert:

15A—Duty of members of board with respect to conflict of interest

(1) A member of the board who has a direct or indirect personal or pecuniary interest in a matter decided or under consideration by the board—

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

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

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

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

Maximum penalty: $20 000.

(2) If a member of the board makes a disclosure of interest and complies with the other requirements of subsection (1) in respect of a proposed contract—

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

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

(3) If a member of the board fails to make a disclosure of interest or fails to comply with any other requirement of subsection (1) in respect of a proposed contract, the contract is liable to be avoided by the board or the minister.

(4) A contract may not be avoided under subsection (3) if a person has acquired an interest in property the subject of the contract in good faith for valuable consideration and without notice of the contravention.

(5) Where a member of the board has or acquired a personal or pecuniary interest, or is or becomes the holder of an office, such that it is reasonably foreseeable that a conflict might arise with his or her duties as a member of the board, the member must, as soon as reasonably practicable, disclose in writing to the board full and accurate details of the interest of office.

Maximum penalty: $20 000.

(6) A disclosure under this section must be recorded in the minutes of the board and reported to the minister.

(7) If, in the opinion of the minister, a particular interest or office of the member of the board is of such significance that the holding of the interest or office is not consistent with the proper discharge of the duties of the member, the minister may require the member either to divest himself or herself of the interest or office or to resign from the board (and non-compliance with the requirement constitutes misconduct and hence a ground for removal of the member from the board).

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

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

(10) In this section—

'associate' has the same meaning as in the Public Corporations Act 1993.

As I said when I moved my previous amendment, the same applies in regard to the Statutes Amendment (Honesty and Accountability in Government) Act 2003. We are bringing forward this amendment. It is related to the other one in regard to immunity from personal liability.

New clause inserted.

Clause 16 passed.

New clause 17AA.

Mr HANNA: I move:

Page 9, after line 1—Insert new clause as follows:

17AA—Procurement of computer software by public authorities

(1) A public authority must, in making a decision about the procurement of computer software for its operations—

(a) consider the procurement of open source software; and

(b) as far as practicable, avoid the procurement of—

(i) software that does not comply with open standards; and

(ii) software for which support or maintenance is provided only by a person or body who has the right to exercise exclusive control over the sale or distribution of the software.

(2) In this section—

'Open Source Definition' means the document of that name published by the Open Source Initiative;

'Open Source Initiative' means the non-profit incorporated organisation of that name dedicated to managing and promoting the Open Source Definition for the good of the community;

'open source software' means software the subject of a licence that complies with the Open Source Definition as in force from time to time;

'open standards', in relation to computer software, means that the specifications for data representations used by the software (including but not limited to, file formats for data storage, transmission and network protocols) are completely and accurately documented and available to the public for use, application or review without restriction.

This is a proposal to ensure that public authorities will consider the procurement of open source software to meet their IT requirements. It is not mandatory for public authorities to procure open source computer software under this provision but it does ensure that public authorities will, at least, consider it.

I need to say something about open source software to set the background for this amendment. I am grateful to the Hon. Ian Gilfillan in another place for pushing this issue legislatively as well. The best way to encourage competition and to promote inter-operability in the IT industry in Australia is through support for open document and data formats and protocol standards. These are collectively known as 'open source software': 'open' meaning that the programs cannot be changed unilaterally. To take a contrary example, Microsoft has established Word as a de facto document standard and it keeps changing the details of the format in order to make it impossible for competitors to implement compatible word processors. This, of course, helps them to sell more copies of their own software.

By introducing newer so-called 'features' in newer versions—producing files that cannot be processed by older versions—they are forcing customers into upgrade cycles at the behest of the corporation rather than meeting the consumer need. Hence, even if, in the end, customers choose to stay with Microsoft products their interests would be better served if Microsoft adhered to open standards. So, it is not directed at any one corporation but it is to ensure a true level playing field, and I am sure that the government would support that in principle.

Open source software is the best means through which control of system platforms and application technologies can be vested with governments rather than relying on a single supplier of software. It has the potential to save enormous sums of money. To give an indication of how much money could be saved, Microsoft recently released a statement where they claimed to receive around $175 million per year from the Australian public sector (obviously, that is nationwide). Most of this money would be in the form of software revenue, which is predominantly for server and desktop systems and application software—just the type which can be replaced through open source equivalents. Open source also has the benefit of fostering innovation, development and employment in Australia.

It would serve to reduce Australia's balance of trade in respect of IT products, as open source software does not see moneys for licence costs being exported offshore. So, there is a national interest in promoting open source as well. Given the volume of government IT procurements, governments, including the South Australian government, could take the lead role in this area. We would not be the only state if we did so. Governments in many countries have taken this approach. In Germany over 500 government agencies have adopted open source software in recent times. In our region it is also very well accepted in China, India, Korea and Japan. The ACT government recently passed a Government Procurement (Principles) Guideline Amendment Bill, and vendors (that is, suppliers) of IT currently with products which lock in governments are now on notice that the rules of engagement in the ACT have changed. In a sense this takes out the monopoly profits which are built into existing licensing regimes. No doubt, such provisions as have been passed in the ACT will be considered in other Australian states.

In summary, we are talking about a level playing field and, in my submission to members, government departments have unfairly stipulated proprietary platforms and applications which are available only from a single supplier. The open source software is potentially capable of delivering software that is both technically adept and clearly of better value. It is for these clear reasons that public authorities should at least consider the procurement of computer software. I repeat that this is not about insisting that such open source computer software be purchased by government departments: it is ensuring a level playing field by forcing the bureaucrats and board members who make these decisions at least to have an open mind about open source.

The Hon. M.J. WRIGHT: I thank the member for his amendment and his contribution. We oppose the amendment. Having said that, we have a sense of the sentiment expressed by the member for Mitchell. Generally, you would not write something like this into the legislation. Obviously, with technology changing at the rate it is, it would require subsequent changes to the legislation. The act requires the board to take account of government policy, and we support open source from a policy perspective and, where we could, we would support it. Open source, of course, is a type of technology that could (and probably will) change at some time in the future, whether that be in 12 months time or longer, I do not know. Other people may have better knowledge of that than I do. It is a technology terminology that could change and therefore, for both those reasons, I would suggest that you would not legislate.

As a principle, though, we support the notion of open source. We need to be about getting the best outcome in any given procurement. We need to look at a range of criteria to get the best outcome for a given procurement, and obviously open source would be one of those criteria. For a particular procurement there may be others which would have a greater weighting at any given time. The criteria would need to also take account of value for money, supportability, inoperability, local economic development, user acceptability, skills development, equity and access. These are not necessarily mutually exclusive but, for those reasons, we do not support this amendment. However, we concur in the thinking of the member for Mitchell in regard to the policy position and, certainly, from a policy perspective, we support open source. Where possible we would support it.

Mr HANNA: I have two questions in response to the minister's contribution. I do thank the minister for his recognition of the value of open source software. My first question relates to the government's support for the policy of open source. Could the minister at some point provide me with a written document outlining that policy, or is the minister just referring to a very general wish that this be kept in mind? In other words, I am asking whether or not it is an existing written policy, and if it is I would be very grateful if he would supply that information.

Secondly, open source software, by definition, is not proprietary software. It is not supplied by a particular corporation, and therefore it will be competitive to ensure that public authorities at least consider it. My other question is: what harm would it do if this amendment passed?

The Hon. M.J. WRIGHT: I thank the member for Mitchell for his questions—both good questions. Is there a written policy? The answer is no, but it is much more than a wish list. The State Supply Board has broad policies and they are to ensure a wide supply of services. It intends to get a big supply market. It is looking at open source systems and, for example, at the moment, DAIS is trialing an open source system called the Sun system, and the results of that trial will help formulate policy in this regard. The second question related to what harm this would cause in regard to putting this in the legislation. My earlier response was that you are probably going to be dealing with language that will change in the foreseeable future.

As I said, open source is a type of technology that could, and probably will, change some time in the future. We are really talking about technology terminology and, of course, we know how quickly technology changes. That is why I said that we would be wise not to write this into legislation but, on the other hand, that is why I made the comments about the general support we have for an open source policy.

Mr WILLIAMS: The opposition does not support the amendment as proposed by the member. The government of the day is obliged, under the objects of the act, to obtain value in the expenditure of public money, and I think that probably covers most of the member's concerns. Consequently, the opposition does not support the amendment.

New clause negatived.

Clauses 17 to 22 passed.

New clause 22A.

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

Page 10, after line 9—Insert:

22A—Immunity from personal liability

(1) No personal liability attaches to a member of the board, a member of a committee established by the board or any other person engaged in the administration of this act for an act or omission in good faith in the exercise or discharge, or purported exercise or discharge, of a power, function or duty under this act.

(2) A liability that would, but for subsection (1), lie against a person, lies instead against the Crown.

This amendment is related to the earlier one that I have already spoken about in respect of conflict of interest and the statutes amendment act that has already been assented to. There is no need for me to make the same argument. This one also fits into that category.

New clause inserted.

Clause 23, schedule and title passed.

Bill reported with amendments.

The Hon. M.J. WRIGHT (Minister for Administrative Services): I move:

That this bill be now read a third time.

I thank the opposition for its support. I have undertaken to sort out with the shadow minister the situation regarding the committees that we have discussed. We will have a discussion about that, but I think we can reach an agreement and get a board member put on to the committees. That can be done by way of a simple amendment moved in the Legislative Council, and I think it will clear up any concerns. We are happy to consider that matter and have a good look at it.

Bill read a third time and passed.

The Hon. M.J. WRIGHT (Minister for Administrative Services): I move:

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

Motion carried.

PASTORAL LAND MANAGEMENT AND CONSERVATION (INDIGENOUS LAND USE AGREEMENTS) AMENDMENT BILL

In committee.

(Continued from 24 May. Page 2158.)

New clause 6D.

The Hon. J.D. HILL: Yesterday, the member for Stuart tabled some amendments in relation to this bill. He kindly informed me during question time yesterday that he was going to do that. Unfortunately, I had a pair and was in Melbourne yesterday evening and attended a conference this morning, so I was unable to engage in the debate last night. However, I did give an undertaking to the member for Stuart that I would have a close look at the amendments he was proposing. The government has had a chance to look at those

amendments, and I will make some general observations in relation to them, in particular the amendment, which I think was considered last night and lost, in relation to the process of review of the inspection of pastoral lands when the leases are to be renewed.

I understand that my departmental officers spoke with the member for Stuart today to try to get a clear understanding of the issues. We have been working with parliamentary counsel and the officers from the Pastoral Management Board and my department, as well, to try to get something together. I advise the member for Stuart that we have only had his proposition since five o'clock yesterday afternoon, and we have not had an opportunity yet to consult with the appropriate people, including the Pastoral Board, the Farmers Federation and perhaps others within my department. However, I give a commitment to the member for Stuart to introduce an amendment in the other place which will provide for a review process that will involve, in an appropriate way, the Farmers Federation in nominating persons with the right kind of skills. Because of the lack of opportunity to have consulted and properly consider this matter, I cannot agree to any amendment today. In fact, this amendment has already been considered by the house and was lost.

The Hon. G.M. Gunn: We can recommit it.

The Hon. J.D. HILL: I understand that. I say to the member for Stuart that I will deal with this seriously; I understand it is a serious issue. I have had a briefing from my officers about the problems that have occurred in the past in relation to a couple of lessees who had an objection and who did not have the skills to deal properly with the objection. We want to make sure that we get it right and I give the member an assurance that we will go through that process. Another matter that the member raised in his amendments is the relationship between the pastoral act and the Native Vegetation Act. The advice that I have had in relation to his amendment, which would require the issue of native vegetation not to affect stocking regimes, is that it is largely a redundant provision, because in its exercise of its power the Pastoral Board does not take into account those matters when it determines what stocking ought to be. It is a more complex procedure. So, I am not minded to accept that amendment.

However, as I have said to the member for Stuart on a number of occasions outside the chamber, my department, along with the Pastoral Management Board, is working through the issues of native vegetation management on pastoral lands—and the particular issue relates to the issue of watering points. That has come about because a new regime has been introduced by the capping of the 300 or so bores that we have in South Australia, the conservation of water and the capacity for pastoralists to channel or pipe that water in more effective and productive ways across the landscape. So, we are just trying to deal with this new regime, but we are giving very serious consideration to it. I do not say that as a kind of a sop to the member, but we are actively trying to work out a system, and I understand that negotiations between the Pastoral Board and the pastoralists are going very well.

As the member would know, the Pastoral Board has the powers of the Native Vegetation Council when it comes to these matters in relation to pastoral lands. The member has raised other matters, and I think the government indicated yesterday that it does not support the two issues in contention. I say to the house and to the member for Stuart that I understand that he is passionate about these issues and that he is doing it from a great sense that this is the right thing for his constituents. In relation to the review process, we will certainly come up with a measure which I will consult with him about prior to its introduction in the other house, to establish our bona fides in trying to deal with this important issue.

Ms CHAPMAN: I seek clarification in relation to the minister's response on these two issues. In relation to the proposal which would involve two representatives being on the assessment board, do I understand that all that lies between the minister's agreeing or not agreeing to that is the agreement by the South Australian Farmers Federation? That is, the two impediments to the agreement are, first, the agreement by the South Australian Farmers Federation that they would support it and nominate someone in consultation with them and, secondly, that a suitably qualified person would be found to do the job, given the apparent experience you have had. Are they the only two impediments to your agreeing to that?

The Hon. J.D. HILL: You have raised the issues and they are amongst the things that we would need to—

Ms Chapman interjecting:

The Hon. J.D. HILL: The point is that we are not sure, because we have had this measure to look at only since 5.00 p.m. yesterday, and in fact I only had a look at it early this afternoon. I want to get advice from the Pastoral Management Board itself about how these provisions would operate, because they may see concerns which, as a non-expert, I cannot see. I cannot limit what the concerns may be. We have not talked to the Farmers Federation, so we need to consult with them. We have not consulted with the Pastoral Board, and I need to go through the processes with my department so the people with the expertise internally can look at it.

The point the member for Stuart was trying to establish is that some pastoralists find the process of review difficult. If they object to the outcomes, they need some assistance by way of having someone with expertise look at the Pastoral Board's recommendations to assist that person present a case to the board and make recommendations about what the outcome ought to be. It is really trying to work out how to do that. I do not want to rush into it on the basis of a couple of hours of consideration. I want to go through a proper consultation process—and we will be able to do that before the matter is dealt with in the other place.

The Hon. G.M. GUNN: I accept what the minister has said, but I clearly make the point that once the matter leaves this house we no longer have any opportunity to have an influence on the outcome. This matter has been a source of great concern to a number of people who—to put it mildly—were treated in a quite outrageous manner. My whole desire in this matter is to ensure that it is transparent, fair and reasonable. They have not been treated in that way.

This amendment has been put to this house on about two other occasions. It was set out on the *Notice Paper*, so anyone who knew about me and knew anything about the act knew that the moment the act was opened up this was going to come. Let us be very honest about it. I knew the minister's other amendments were coming, and the moment he tabled them I had good grounds to bring them on. I support those other amendments. I did not want to confuse the issue, but I have to say that we regard this as fundamental—as we regard the other amendment dealing with native vegetation. There is no role and there never was a role, and there never was an intention in the act or the regulations, or any discussion. As the minister has pointed out, we have a process of capping boards, but we also have a general process of people wanting

to improve their pastoral properties. They have now had superimposed upon them the ability to carry out that desire. As I said to the minister's officers this morning, experience with these people in relation to the Native Vegetation Act—I put it mildly—leaves a great deal to be desired.

At an appropriate time, as things appear to be running now, some of these people will get unloaded. They have acted in a disgraceful manner. I could tip it all out now but I would rather deal with it privately. I have the evidence. In a democratic society certain standards ought to be adhered to, and they have not been. That is only one of the reasons. Let me say that for over 100 years people have been improving pastoral leases, and we want to see it continue. One of the great problems in our democratic system is that people who have had no personal involvement in the industry and do not have any feeling for it have been making decisions. That is the problem. Last week, I took five of my colleagues—they can laugh at me—

The Hon. M.J. Atkinson: Certainly not!

The Hon. G.M. GUNN: Last week, I took five of my colleagues to the north of South Australia. All we heard about the whole time was the terrible treatment those long-suffering isolated people have had from insensitive bureaucrats. The Deputy Leader of the Opposition was absolutely amazed at the sorts of complaints that were made to us.

I have every right to stand here. If we do not pursue these matters this will not get better, it will get worse, because on many occasions we are legislating not on behalf of the people of South Australia but for and on behalf of bureaucracy. The legislation is drawn up by the bureaucrats, it is passed by the parliament, it is implemented by the bureaucrats, and the long-suffering public has no opportunity. The real sadness of it is that, when you are challenged by the government, instrumentalities and agencies, you are at a tremendous disadvantage. So, I ask the minister if he can assure this committee that those unnecessary, unwise and quite outrageous provisions, which were never the intention of the Native Vegetation Act will be set aside so that these people can get on with their livelihoods without fear or favour, red tape and nonsense; that is all it is.

The Hon. J.D. HILL: I can assure the member that, in relation to the matter of the review process which I discussed, I give a personal undertaking that we will move an amendment in the other place that addresses the concerns that he has made. I give a personal undertaking that I will consult with him before the matter is moved in the other house. In addition to that, if it is successfully passed in the other place, the honourable member will have an opportunity to debate it in this chamber again.

The Hon. G.M. Gunn interjecting:

The Hon. J.D. HILL: I give that undertaking. I have addressed the other matters so I will not repeat myself.

The Hon. G.M. Gunn: It is taking too long.

The Hon. J.D. HILL: I accept that is taking a long time. It is not because we are not trying to get it done well or quickly.

The Hon. G.M. Gunn interjecting:

The Hon. J.D. HILL: I understand, and today I had advice from Mr Chappel that we are a couple of weeks away from having a breakthrough in the way we can manage this native vegetation issue. It will then be templated, if you like, across the relatively small number of pastoral properties where it is an issue. I inform the member for Stuart that this coming weekend I will travel into some of the pastoral lands checking on the dog fence. I will let the member for Stuart know where I am going, so if he wants to join me at any of these sites, I would be happy to share a campfire with him.

The CHAIRMAN: Order! I think the committee has had a fair canvassing of matters that are probably tangential to this particular clause. I think we need to get back to the clause. The minister has given an assurance. I think we need to progress.

The Hon. G.M. GUNN: My understanding is that we are currently considering amendment No. 3 standing in my name, which deals with the Native Vegetation Act. If the minister can be a little more precise, I will give way on it. The amendment sets out to give people some rights that have been taken away from them. These people have a right to graze a certain number of stock on their properties. They are now being denied the right to do it in the most efficient, the most environmentally friendly, and the most sensible way. This provision was dreamed up by the anti-farmer, anti-pastoralist brigade. I have every right to know (otherwise we will have to stay here for a long time) and I need to know when this damn nonsense and humbug will end. I am advised that, if it were challenged in the appropriate court, the pastoralists would win because these provisions are contrary to their legal lease. So, goodness gracious me, let's apply a little commonsense, and let these people get on with it and we will not have any more of this. We will go home now.

Mrs Geraghty interjecting:

The Hon. G.M. GUNN: Well, I have had enough of it.

The Hon. J.D. HILL: In relation to amendment 3, the advice I have in relation to the amendment by the member for Stuart is that this would have no impact. It would confuse things. The advice I have is that this would have no impact because at the moment the Pastoral Board does not take into account those matters, so it is redundant.

Ms Chapman interjecting:

The Hon. J.D. HILL: I am trying to sort this out in a way that makes sense—we do not want to confuse it by doing things that do not make sense. It relates to how we manage these issues on real pieces of land. I am advised that by the end of June the Pastoral Management Board will have agreed on a template management plan for a particular pastoral property. The honourable member may know the property, but I choose not to mention it here in case the owner does not want to be named, but I can tell the honourable member later. That will give us the template to enable us to reasonably and rapidly go through the other properties.

I understand that there are only 25 properties or thereabouts where there is a particular issue, so it is a relatively small number of people. We will put resources into dealing with this as quickly as we can. If the member for Stuart privately wants to indicate properties that should be given priority, I can certainly raise it with the Pastoral Management Board people.

The Hon. G.M. GUNN: I do not want to be unreasonable, but in this instance a provision has been inflicted upon these people that was never intended. It is not necessary to have these damn things—to be drawing up plans. People have enough trouble complying with all sorts of other red tape and regulations—it is not necessary. I moved this amendment on the advice of parliamentary counsel. I asked how I could do it. I sought the advice of parliamentary counsel and unfortunately they are not here tonight, and I do not know why. That is not my fault. I accepted that advice—I have no alternative as I do not have other officers at my disposal. Once we let this go from this place tonight it is gone.

As I said earlier, the damn things are implemented by people who can ignore what I and the pastoralists say, so I need a clear undertaking that the problem will be fixed. We do not need property plans—do not give me that nonsense. It is red tape and hogwash. These people have a legal right to graze 7 000, 8 000, 10 000 or 20 000 sheep or cattle. They only want to extend the pipeline—things that people like myself have done all our damn lives. What will you do with some of them who work hard and ignore the act and extend a pipe? Will you send people out to lock them up? This government, deliberately or otherwise, has really taken the stick to people in the northern parts of my electorate. You put the pastoral board under your portfolio, contrary to the wishes of every pastoralist. You got rid of—sacked—the chairman of the Native Vegetation Council.

The Hon. J.D. Hill: I didn't sack him at all—his term expired.

The Hon. G.M. GUNN: You didn't reappoint him—it's the same thing. Then, to top it off, you inflicted this on them and then you took away all the road funding.

The Hon. J.D. Hill: I didn't touch their road funding.

The Hon. G.M. GUNN: No, you didn't, but your government did. You wonder why people like me are a bit upset. How much longer do we have to put up with this silly business? If a farmer wants to roll out three or four rolls of polythene pipe, will you say, 'Just get on and do it' and forget this hogwash and nonsense? If you explained it to any reasonable person they would say that they have been doing it for 100-odd years—why do they need this piece of paper? It is stupidity and whoever is responsible ought to be bopped on the head because that is how silly the whole thing is.

The Hon. J.D. HILL: I am not too sure how I can better address the issues raised by the member. He made some statements that the Native Vegetation Act was never intended. I was not here in the—

The Hon. G.M. Gunn: I was.

The Hon. J.D. HILL: I was not here in the early 1980s, but whether or not it was intended, it does cover it and it has covered it since the 1980s. When the honourable member's government was in power—and I do not think it instructed this but it happened when his government was in power—the management of the Native Vegetation Act in the pastoral lands was transferred to the Pastoral Board. It is done by the board which is set up specifically to look after pastoral issues and it is managing it in a very sensible way. The honourable member accused me of doing things to bash the bush—

The Hon. G.M. Gunn interjecting:

The Hon. J.D. HILL: I know the honourable member was making a point, and I will respond to his point because I think it is an unreasonable point. The honourable member says that I sacked the head of the Native Vegetation Board. I did not sack him: his term expired and I appointed another person. The honourable member says that I sacked the chair of the Pastoral Board. I did not sack him: his term expired too, and I appointed a pastoralist from that region who—

The Hon. G.M. Gunn interjecting:

The Hon. J.D. HILL: True, but I have appointed a pastoralist as the chair; a member of the Farmers Federation—

The Hon. G.M. Gunn: A personal friend.

The Hon. J.D. HILL: A personal friend of the member for Stuart, a member of the Farmers Federation and a nominee of the Farmers Federation as the chair of the—

Ms Chapman interjecting:

The Hon. J.D. HILL: He is part of the group that makes the decisions. I mean, he—

Ms Chapman: Not any more, he doesn't; he has been sacked.

The Hon. J.D. HILL: That is not true; the member for Bragg does not understand this. The chair of the Pastoral Board (appointed by me) is one of the Farmers Federation nominees on the Pastoral Board. He is a pastoralist and he is a close personal friend of the member for Stuart, so I cannot see how I can be criticised for being biased in that appointment against the interests of pastoralists. I absolutely reject that. As to road funding, I cannot comment on it; it is not within my powers. I say to the member, we will probably have to disagree about this. I can assure him sincerely and with as much alacrity as is humanly possible that we are trying to deal with this matter in a way which is being managed by the Pastoral Board.

Ms CHAPMAN: I support the amendment. I point out to the minister for his consideration when he says that he will take these factors into account that the current extension of term of pastoral lease provision in section 25 of the Pastoral Land Management Act (which the minister is seeking to amend) is quite general. It says that every 14 years there has to be a review; an assessment must be undertaken in relation to the condition of the lands; the board has a discretion not to extend the term if there has been a wilful breach—and I am paraphrasing at this point—and if without reasonable excuse there has been a failure to discharge a duty. In other words, there needs to be a review at the end of the 14 years for the extension of time, it has to be proceeded by an assessment and, if there has been a wilful breach and a failure to fix that up, then that can be granted.

As I read the minister's amendment, new section 25 will be much more prescriptive about what that process is to be, by whom, and what is to be taken account. In particular, the assessment under new section 25(2) must be thorough, must include an assessment of the capacity of the land to carry stock, must be conducted in accordance with recognised scientific principles, must be carried out by persons who are qualified and experienced in land assessment techniques and must take into account any matter prescribed by the regulations. What is now proposed—and the opposition has indicated it is supporting this—is a very much more detailed program about what must be taken into account.

We say that that program could be enhanced if the member for Stuart's amendment No. 2 is successful. Rather than just having 'persons who are experienced', we ask for one of those to be nominated, as we have previously discussed. New section 25 is very prescriptive. It does not deal specifically with issues relating to water or the Native Vegetation Act, but it very clearly sets out a program. Of course, there is then a process whereby a report and notice must be given and, if the pastoralist simply does not like it, the appeal procedure is available to him or her. That is fine, and we are happy to support that. This amendment says that, outside of that, the assessment that will be undertaken, with all this prescription in relation to the carrying capacity of the stock and the ability to carry out improvements, does not take into account the operation of the Native Vegetation Act. The minister says that the Pastoral Board does not have to take into account those provisions anyway at present.

The Hon. J.D. Hill interjecting:

Ms CHAPMAN: Perhaps we should clarify that. My note of what the minister said was that the Pastoral Board does not take that into account anyway. There seems to be a hiatus at

the moment until you have renegotiated these other arrangements, and you want to ensure that that is covered. That may be the case, but it seems to me that, if there is no application, there is no requirement, even under your own proposal, for that to be taken into account. Why then is it necessary to reject and resist this amendment to make it absolutely clear?

The Hon. J.D. HILL: I think I have answered that question before. I will correct a couple of things the member has said. She refers to new section 25 and the onerous set of conditions.

Ms Chapman interjecting:

The Hon. J.D. HILL: Well, they are not new. In fact, paragraphs (a), (b), (c) and (d) are all in the existing act: they are just in a different section. In relation to the matters the member raises, the point is that, in terms of determining the carrying capacity of a piece of land, the Pastoral Board does not take into account the conditions of the Native Vegetation Act. It is not an issue that is relevant to the native vegetation legislation.

The issue relating to watering holes is an issue for the Native Vegetation Act. It involves the placement of those watering holes on a parcel of land. At the moment, cattle will congregate for drinking where the bores operate. If you replace those traditional bores (if we can call them that) with new watering points, you create new points of pressure on the land. So, it has nothing do with the number of cattle on the land: it is the distribution of the watering points. The proposed measure is irrelevant to the concern that is currently before pastoralists. It would confuse things, and there might be a perception that the measure does more than it does. I think the member would agree that it would be bad practice to put into legislation things that are confusing and redundant.

Hon. G.M. Gunn's amendment to proposed new clause negatived.

The Hon. G.M. GUNN: It is my intention to move to recommit the debate on new clause 6CA. I raise this issue now so that we can do so at the most convenient time. During the course of the debate last night, the Attorney-General challenged us that we were not game to divide on my proposal. I have a further amendment to move which would then allow that to take place. I was trying to be cooperative last night. However, my credibility has been called into question and we will now test it at the appropriate time in this place, as the proposition I put forward is Liberal Party policy. At the appropriate time we wish to have a vote in this committee to see who supports this proposition. I seek your guidance, sir, as to when would be the most appropriate time to do it.

The CHAIRMAN: The honourable member is moving a modified amendment to clause 6C; is that right?

The Hon. G.M. GUNN: Yes.

The CHAIRMAN: You can do that when the other amendments and clauses are dealt with.

The Hon. G.M. GUNN: I do not wish to proceed with my amendments Nos 4, 5, 6 and 7. The only other amendment I wish to move is to the clause on which we had the discussion last night.

The CHAIRMAN: We will do that when we have done everything else.

New clause inserted.

New clause 6E.

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

Insertion of section 31A

After section 31 insert:

31A—Variation of land subject to lease

(1) The minister may, by notice in writing to the relevant lessees—

(a) excise land, or a part of land, subject to a pastoral lease and transfer the land, or the part of land, to another lease; and

(b) alter the boundaries of the leases accordingly.

(2) Despite a provision of this act, the minister may, in the same notice—

(a) vary the rent payable under a pastoral lease to take into account the increase or reduction in value of the lease resulting from the alteration of the boundaries; and

(b) vary the land management conditions of a pastoral lease (including varying a condition relating to the maximum level of stock on the land, or a particular part of the land).

(3) The minister may only take action under this section—

(a) on the recommendation of the board; and

(b) at the request or with the consent of the relevant lessees.

(4) On registration by the Registrar-General of a boundary alteration pursuant to this section—

(a) the alteration takes effect; and

(b) all registered interests or caveats to which the pastoral lease is subject extend over the lease as so altered.

New clause inserted.

New clause 6F.

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

Amendment of section 42—Verification of stock levels

Section 42(1)—delete subsection (1) and substitute:

(1) The lessee under a pastoral lease must, not later than 31 July in each year, furnish the board with a statutory declaration as to stock levels on the pastoral land as at 30 June of that year.

New clause inserted.

The CHAIRMAN: All those new clauses, 6A to 6F, have been dealt with separately, so we do not have to recommit those.

Clause 7.

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

Page 4, after line 25—

Insert:

46C—ILUA to be endorsed on lease

(1) If an ILUA is entered in relation to pastoral land, the Minister must cause a notice of that fact (in a form approved by the Registrar-General) to be lodged with the Registrar-General.

(2) The Registrar-General must, on receipt of a notice under subsection (1), endorse on the relevant pastoral lease or pastoral leases the fact that an ILUA has been entered in relation to pastoral land the subject of the lease or leases.

(3) No stamp duty or fee is payable in respect of a notice lodged or action of the Registrar-General pursuant to this section.

This amendment provides that an ILUA must be recorded on a pastoral lease and has been agreed to after representations from the South Australian Farmers Federation and the member for Stuart. It will ensure that a prospective purchaser or other person seeking public information on a lease is made aware of an ILUA. Although the act currently allows for this to occur, the amendment will ensure that it occurs promptly. It should be known henceforth as the 'Gunn' section.

Ms CHAPMAN: Can the minister confirm that there will be no fee payable and, if there is to be a fee for the registration, what it will be?

The Hon. M.J. ATKINSON: The member for Bragg is usually a meticulous committee-stage participant but, if she reads the clause, she will see that it says, 'No stamp duty or fee is payable in respect of a notice lodged or action of the Registrar-General pursuant to this section.'

Ms CHAPMAN: So is the answer no?

The Hon. M.J. ATKINSON: The answer is obviously no.

Amendment carried.

Ms CHAPMAN: I have some questions in relation to new section 46B in regard to immunity for liability. I ask the Attorney to clarify this question of public liability, there being no civil liability attaching to a party to an ILUA for injury, damage or loss caused by another party to the ILUA. It seems that this may be a drafting issue, but it appears to me that there may be some confusion, certainly in the consultation process that we undertook. I think it was clear from the Attorney's second reading speech that there would be relief for pastoralists from public liability (which they have sought for a significant time) for people who enter their land.

I think the intent is clear, but I am not sure that the clause makes it absolutely clear. As I say, in the consultations we have had, the concern has been raised that this clause does not give the protection that I think is the intent of the government and the Attorney. The drafting may be at fault and there may not be any mal-intent on behalf of the Attorney, but I seek some satisfactory explanation as to the somewhat curious drafting, and clarification as to exactly what is intended.

The Hon. M.J. ATKINSON: I am advised that the member for Bragg is correct, and the shield from protecting the occupier against liability is greater where the person on the lease is a trespasser. So, the formula used is intentional harm or gross negligence. The member for Bragg is right in her thinking.

Clause as amended passed.

Clause 8 passed.

Clause 9.

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

Page 5, line 8—
Delete '(1)' and substitute:
(2)

This amendment is merely a numbering change.

Amendment carried.

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

Page 5, lines 16 to 19—
Delete subclause (3)

This amendment is to comply with representations from the Farmers Federation and the member for Chaffey, and we do not want to restrict unduly the camping rights of people exercising a public access to a property. The original proposal raises some difficulties, especially for smaller lease areas, and the government did not think there was any reasonable prospect of enforcing it.

Amendment carried.

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

Page 5, after line 26, insert—
(5) Section 48—after subsection (9) insert:
(10) An authorised person may give to a person travelling across or camping on pastoral land the subject of an ILUA such directions as may be reasonably required for the purpose of giving effect to a term of an ILUA relating to one or more of the purposes referred to in subsection (2a).
(11) A person who, without lawful authority or reasonable excuse, fails to comply with a direction under subsection (10) is guilty of an offence.
Maximum penalty: $1 250.
(12) In this section—
authorised person means—
(a) the lessee of pastoral land the subject of the ILUA; or
(b) the native title group; or
(c) an employee of the lessee or other person acting on the authority of the lessee.
(13) In proceedings for an offence against this section, an allegation in the complaint that a person named in the complaint was on a specified date an authorised person in relation to specified pastoral land will be accepted, in the absence of proof to the contrary, as proof of the authorisation.

The amendment is not greatly different from the original text, but the purpose is to allow directions to be given by an authorised person to a person who is interfering in some way with the area or activities protected under the ILUA. The persons causing the problem may not be aware that they are doing so but when directed to do something are required to comply with the direction or face a penalty. An authorised person includes the pastoral lessee or a member of the native title group.

Ms CHAPMAN: It may be more appropriate in relation to clause 9, with or without this amendment, but I will put this to the minister before this provision passes. In relation to the rights for non-Aboriginals to travel across the pastoral land—which, as I understand it, this section still facilitates, with or without this extra amendment—who takes precedence over an area which is on a public access route: the pastoralist, the native title group, or the non-Aboriginal traveller?

The Hon. M.J. ATKINSON: Each has rights, and the government hopes that they coexist.

Ms CHAPMAN: And in the event that there is some dispute over that, who resolves that?

The Hon. M.J. ATKINSON: If the dispute were referred to an authority, it would go to the Pastoral Board, and if that is unsuccessful, in the final analysis, it would be resolved according to law in the courts. It is our hope that it would not come to that.

Ms CHAPMAN: Section 48 makes provision for the pastoralist not to grant authority, as I read it, in the event that there is a public safety issue, but the minister still has the power to grant that consent. Is that the position?

The Hon. M.J. Atkinson: Yes.

Ms CHAPMAN: So, if there was a dispute, say, between the pastoralist and the native vegetation group and the pastoralist did not give consent because they thought that there was a public safety issue, the first port of call may be to the minister, who could grant consent in any event. Is that the position?

The Hon. M.J. ATKINSON: The clause we are on is about public access rights and not the native title group.

Amendment carried; clause as amended passed.

Clause 10.

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

Page 6. After line 12—Insert:
(7) For the purposes of subsection (2)(c), a 'native title group' does not include a person who would not, but for the operation of paragraph (c) of the definition of 'native title group' in section 3(1), be included in the definition of 'native title group'.
Line 26—Delete 'premises' and insert 'pastoral land the subject of an ILUA'
Line 30—Delete 'premises' and insert 'pastoral land the subject of an ILUA'
Page 7, after line 8—Insert:
(6) For the purposes of subsection (4)(d), a native title group does not include a person who would not, but for the operation of paragraph (c) of the definition of native title group in section 3(1), be included in the definition of native title group.

The clause inserts a new section 48A that requires the minister to keep a public register about certain matters. The information recorded on the public record will ensure that persons affected by any restrictions imposed by an ILUA will have access to that information. There is a range of methods

now by which the pastoral management and tourism areas of government provide information on access to pastoral lands.

The intention is that information on ILUAs will be available without compromising the privacy of the parties. There will be an opportunity for ILUA parties to have a say on how the information is presented. New section 48B confers on an authorised person powers similar to those contained in section 17A of the Summary Offences Act about trespassers. The definition of 'authorised persons' includes the pastoral lessee, the native title group and some other persons. Trespassing on pastoral lands has become a problem for pastoral lessees in the state over recent years as access to the Outback has become easier and been promoted.

Amendments carried.

Ms CHAPMAN: In relation to the public register, could the Attorney clarify something in relation to the explanation he just gave? If the parties to the ILUA do not agree to the disclosure of any information from the agreement—other than the fact that they are a signatory to it themselves and they will put the register—how is it then that the public register can comply with the requirement contained in new section 48A(2) that it must contain details, etc.? It does not actually say here, as I understand it, that there is some discretion for the parties to the agreement to withhold the particulars of that. It may well be that that is the intention, but it seems to me that details of the lease (such as the date and the names of the parties or whatever) and paragraphs (b) and (c) cover the same: information in relation to the terms relating to access rights. Is it going to be a situation where if the parties say, 'We do not want the particulars to be disclosed' that there will just be no compliance with the new provision?

The Hon. M.J. ATKINSON: We are encouraging parties to the ILUA to disclose as much as they will, but sometimes native title groups will want to keep some matters secret and we understand why they would want to do that. If someone with public access rights stumbles upon a site which is sacred to an Aboriginal clan and it is not disclosed on the public register, there would be no consequences unless they were discovered there and asked to leave by someone from the native title claim group.

Ms CHAPMAN: Perhaps the Attorney may consider between here and another place how this will operate in real terms, because the Attorney raised a very important and sensitive issue as to some aspects of an ILUA which we would wish to be kept confidential. This is likely to be most important to the native title group, but there may well be issues which I have not thought of and which may be important for the pastoralists. Nevertheless, it is a requirement that the minister must maintain a public register, and there are requirements about what the public register must contain. This is not a discretion or a proposal to prescribe the information that must be registered on a computer record, on a web site or otherwise. If a party wishes to have an aspect kept confidential—and it may well be for good reason—would it not be preferable that the parties be obliged to provide a copy of the agreement and that that would be registered unless an application was made to the minister which in certain circumstances could then be granted?

A discretion could be vested in the minister not to publish that, but it seems to me that at the moment legislation is being proposed to require the minister to attend to the production and registration of certain information. Yet, we see tonight a situation where what is to be offered to the parties is an opportunity for them to deliver up what information they think is appropriate. So, I would ask that some consideration be given to the drafting of that provision to make clear the minister's obligation and the parties' obligation as to what they are to produce and, if they are to be given the appropriate protection for the reasons given, that that would be specified in the act.

The Hon. M.J. ATKINSON: We will give that proposal our earnest consideration when the bill is between the two houses. I can say about the Todmorden ILUA that the Yankunytjatjara/Antikarinya people are not fully disclosing all the matters.

Ms CHAPMAN: Perhaps the Attorney could clarify proposed new section 48B, which is the trespasser provisions. I think he mentioned that the general law under section 17A of the Summary Offences Act 1953 already makes quite a specific provision for trespassers. I understand that the purpose of this legislation is essentially to expand the group of persons who will be able to give notice as an authorised person to tick off someone if they do not want them there. In other words, instead of the pastoralist currently being the only person who can say, 'No, I require you to leave the property,' and the Summary Offences Act provision being invoked, in this provision the Attorney is attempting to give the native title group a similar power to be able to exclude from their ceremonial occasion or camp area, as commonly used, the uninvited photographer, for example, and they are added into that category. Is that the only reason for introducing this into the act? Otherwise, it is already covered under the Summary Offences Act.

The Hon. M.J. ATKINSON: Pastoral lessees can deal with trespassers under common law, but the remedies extend only to matters such as injunctions and damages, so it is impracticable to take such action against one-off trespassers and it just does not happen like that. Currently, under section 17A of the Summary Offences Act, a pastoral lessee or a person authorised by the pastoral lessee can act to prevent trespassers interfering with the enjoyment of the land by the occupier, that is, protect their pastoral activities and privacy. Penalties apply for persons in breach of the section. That section will remain. Section 17A is effective only to protect the interests of pastoral lessees: it cannot be used to protect the interests of Aboriginal people on pastoral land. Aboriginal people, in theory, might be able to get a court order protecting their activities but, again, this is impractical.

New section 48B extends similar powers as enjoyed by pastoral lessees to a native title group that is party to an ILUA. The section is worded so that both the pastoral lessee and the native title group would be authorised to tell trespassers to leave if they are interfering with the activities of either of the respective parties. In a word, the answer is yes.

Ms CHAPMAN: Whilst it may be that the native title group will genuinely and reasonably wish to exclude someone who is on a property, as I understand it, they must be affecting the enjoyment of their use of the property; it cannot be just a general, 'I don't want you here.' There has to be some genuine interference with their enjoyment for the purpose of their being there. Again, that is inconsistent with the pastoralist who may say, 'This person is here with my permission,' and they are walking in the paddock.

The Hon. M.J. Atkinson: It is only trespassers.

Ms CHAPMAN: I understand that. That raises the question: does it have to be a trespasser, according to both, for the purposes of their being affected? There can be an invited guest or someone who has permission from the pastoralist or one of his or her family, for example, and that

is the person who is interfering with the enjoyment of the native title group.

The Hon. M.J. ATKINSON: If the person who has access to the property is there with the permission of the pastoral lessee, they are not a trespasser.

Clause as amended passed.

Title passed.

Clause 1—reconsidered.

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

Page 2, line 4—
Delete 'Indigenous Land Use Agreements' and substitute 'Miscellaneous'

Amendment carried; clause as amended passed.

Bill reported with amendments.

Bill recommitted.

New clause 6CA.

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

A pastoral lease shall, upon the expiry of its term, be automatically renewed for a further term of the same duration.

I cannot move my original amendment twice. As I was invited last evening by the Attorney-General to come forward and show our true colours, I am happy to do so. Therefore, I have moved this new amendment, which has the same effect as my previous amendment. I thank my colleague the member for Heysen for her help and assistance in this matter. As you would know, Mr Chairman, those on this side firmly believe that people should be given the most secure lease possible so that they can safeguard their investment, plan their future, progress and develop in the interests of not only the people of South Australia but also themselves and their families. This state is crying out for further investment and development. The Premier has rightly indicated that we should increase our exports. These people not only have that ability but they also have the ability, with some of the amendments previously passed today, to invite and encourage people to come and look at the great Outback of South Australia. However, in many cases, to do that they need to make considerable investment to improve their facilities.

Therefore, I am setting out today to put in practice the policy which was supposed to be put into practice after 1993 but, for reasons I have yet to fathom, ministers failed to do so. This is a fair, reasonable and responsible course of action. I have tried to do this by way of private members' time, which has basically become a complete farce; things clog up on the *Notice Paper*. This affects my constituents, perhaps an odd one in the member for Chaffey's electorate and the member for Giles' electorate, and two or three in the member for Flinders' electorate. We are long since past the time when we should be trying to restrict people's rights. What I cannot understand is that, if a Labor government in New South Wales will grant perpetual leases for the western lands, why is it wrong, why is it too hard and why can we not do it in South Australia?

We have driven investment out of this state. They could not build a roadhouse at Cameron Corner in South Australia because the bureaucrats and fools made it impossible. It was too hard in New South Wales, and in Queensland they gave them 640 acres of land and they got on with it, and they did it without any hassle. I make this comparison: in Innamincka they have stopped the place, but Birdsville is expanding and developing. It is unbelievable what has happened.

We want to give these people the ability to invest and plan their futures and do some good things for the people of South Australia. I would have let this go last night, but there is not one reason why we should not do this. Many of these people have their life's investment tied up in these leases. They have been there for generations. As I pointed out last night, it is too hard to get young people to come back and stay on these places now. We need to give them every encouragement, every assistance, and create every opportunity to get people to go to the outback and encourage young people to come back and involve themselves in these properties.

Therefore, I commend the amendment. I am sorry that I have had to do it this way. It is probably not the most perfect way, but it has the same effect. I therefore commend this matter to the committee and thank it for again considering it. I hope the committee will accept it because it is a common-sense approach.

The Hon. R.J. McEWEN: I seek an explanation from the member as to what his amendment actually does. I am trying to read it in conjunction with the present 14-year review, because my understanding of the act as it stands is that a successful outcome of the 14-year review, in effect, gives you a rolling 42-year lease so that you never actually arrive at the 42 years. I would have to assume that the only way that this amendment could have any effect is if you are actually wishing to eliminate the 14-year review. So, I need to seek clarification from the member as to what his intention is in relation to the 14-year review and the rolling 42-year extension because, if he is not challenging the 14-year review as it stands, his amendment has no meaning. In effect, it adds nothing to the bill as it stands.

The Hon. G.M. GUNN: My preferred option was the original amendment which I moved but, because of the procedures of this place, and in the spirit of compromise last night, I did not proceed. So, the only way I could get this up was to move it in this form. Pastoral leases are not as secure as other forms of land title and it is not as easy to raise funds and to encumber them as other forms of land title. If this amendment can be improved, I am happy for that to take place.

The minister has given some undertakings which I accept, because that in itself has been a hassle, because people have been the victims of less than professional action by some of the officers involved in relation to those 14-year leases. As we are now moving to allow tourist activities in these areas, we need to secure these particular leases once and for all, so that they never expire, so that when people go along to a financial institution they can say with confidence that in 50-years their family will still have this and it will not be arbitrarily taken away from them.

The Hon. R.J. McEWEN: I have to confess that I am none the wiser as a result of that explanation to my question. I believe that, in answering it, the member has alluded to what he is actually trying to achieve here. He is not trying to add a further extension to a 42-year lease. In effect, he is trying to turn this, once and for all, into a perpetual lease via a backdoor method. If that is the case, then I think this amendment is flawed and this is an entirely different debate. I need to say again to the member that if he is not challenging the 14-year review, in effect, as it stands, his amendment achieves nothing unless, as he has now admitted, the intention of his amendment—and I am not sure the amendment achieves his intention—is for these leases to become perpetual leases. Will he admit on the record that that is what he is trying to achieve? If that is the case we should be debating an entirely different amendment.

The Hon. G.M. GUNN: I own up. My purpose in this exercise is to have continuous leases. The original amend-

ment which, because of the provisions of this house I could not move, was as follows:

6CA—Substitution of section 24—Term of pastoral leases
Section 24—delete the section and substitute:
24—Term of pastoral leases is continuous
(1) The term of a pastoral lease, whether granted before or after the commencement of this section, is continuous.
(2) Subsection (1) applies to a pastoral lease granted before the commencement of this section despite the provisions of the lease, which are modified accordingly, and despite any other provision of this act.
(3) However, this section does not apply to a pastoral lease to which clause 6 of the schedule refers.

That is the original amendment. I would like to be moving that but, because of the provisions of the house, this is the only way in which I can do it. I thank the committee for its indulgence. The principle needs to be agreed to. If the minister would take it on, I would be happy. In the year 2004 there is no longer any need to have these leases restricted. They should be the same as the western lands leases in New South Wales, that is, continuous. I look forward to the support of the committee.

The Hon. J.D. HILL: I indicate that the honourable member does not get the support of the government on this issue—and I would be surprised if a majority of his own side would support it.

The Hon. G.M. Gunn interjecting:

The Hon. J.D. HILL: It may well be, but that is because they know it will not get passed through this place, I suspect. In government, the honourable member had the opportunity to move this legislation at any time in the last—

Ms Chapman interjecting:

The Hon. J.D. HILL: If the member for Bragg knew anything about this issue I would listen to her, but I suggest she keep her mouth closed for the time being and allow me to put the position. If she knew anything about it I would listen to her. The fact is that in government the Liberal Party had plenty of opportunities to put forward this proposition. They did not do it because they know it is bad policy. It is bad policy because it will undermine the condition of the pastoral lands in South Australia, which have been extraordinarily well managed over the last 50 or 100 years, or thereabouts. We have had a Pastoral Board system in place which supervises the use of the pastoral lands. It is largely determined by a group of people that is very sympathetic to the pastoralists. It creates the right conditions for stocking and it sets limits on what can be done on the lands in a way which has made those pastoral lands productive for a very long time. They have not been clapped out because they have been overstocked. They have been managed in a way that has allowed the pastoral industry to continue in a sustainable fashion.

Members interjecting:

The CHAIRMAN: Order! The minister has the call.

The Hon. J.D. HILL: The proposal of the honourable member would introduce in a de facto way a perpetual lease because there would be an automatic rollover every 42 years. At the moment, as the Minister for Agriculture, Food and Fisheries pointed out, there is a review process every 14 years, or thereabouts—and we are making that more explicit in the amendments we have passed tonight. If that process is passed satisfactorily—and it usually is—then a new 42-year lease is created. There is always that ongoing lease that the pastoralists have. The current system works extraordinarily well. This would be highly detrimental to the way in which we manage our pastoral lands. As I said, it is something the Liberal Party, which claims to support it, did not do when it was in government because it knew that it was not good policy.

Mr VENNING: I support the member for Stuart and congratulate him on bringing this motion forward under great duress. I cannot make any apology for why this was not advanced in 1993, but the fact is that it was not. There is no sense turning back to blame people. I always believe in the here and now rather than the there and then. I listened to the minister's speech a moment ago, and I noted the list of conditions that he read out, and I do not believe that, under the member for Stuart's amendment, any of those conditions would change. After all, it is still a lease. I cannot believe why this government cannot do the same as the New South Wales government when it gave perpetual leases (which are a lot better and stronger than what we are doing here) to all the pastoralists in the western lands of New South Wales.

I think we would be doing a great service, in fact, it would be an historic moment, if we were to do this. I plead with the Independents, the members for Mount Gambier and Fisher, to carefully consider it, because you have to understand that we have gone through a freeholding process with perpetual leases. There is no reason at all why people in the outback areas cannot have their leases upgraded as well. It is not an accident that the member for Stuart has been in this place for nearly 34 years. This man gives his people very good representation. He speaks for them and knows what they think. It would be very fitting tonight to get over the so-called hurdle that has been there for generations and which allows these people to have a better tenure on their land. To say that they do not look after their land is nonsense, because these people, as you know, have come a long way in the past 25 years. Every pastoralist is conscious of his or her land.

As the member for Stuart said earlier in the debate, putting in pipelines and water actually protects the vegetation and the land. Without any further ado, I congratulate the member for Stuart. He toughs it out. You need only to go out there as six of us did last week and, as we moved around from station to station, it gave us a warm inner glow to walk up to them. They all know who you are with, and say 'Gidday, Graham'. That has come about with a lot of hard work and straight representation. I hope that the committee will consider this.

The minister listed all the conditions in the reviews, but I do not believe that they would be any different because they are still subject to various conditions in relation to maintenance, degradation and the environment on the lands. It gives them some surety, better tenure, and most importantly, they are able to improve those lands by building facilities that we, as visitors, can enjoy. They will not do so if they have a very short lease. I commend this amendment to the house, and I live in hope that we will pass it.

The committee divided on the new clause:

AYES (16)

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

NOES (18)

Atkinson, M. J.	Bedford, F. E.
Breuer, L. R.	Caica, P.
Ciccarello, V.	Geraghty, R. K.

NOES (cont.)

Hanna, K.	Hill, J. D. (teller)
Key, S. W.	Koutsantonis, T.
Lomax-Smith, J. D.	McEwen, R. J.
O'Brien, M. F.	Rankine, J. M.
Rau, J. R.	Snelling, J. J.
Thompson, M. G.	Wright, M. J.

PAIR(S)

Brokenshire, R. L.	Conlon, P. F.
Kerin, R. G.	Foley, K. O.
Kotz, D. C.	Rann, M. D.
Matthew, W. A.	Stevens, L.
Scalzi, G.	Weatherill, J. W.
Williams, M. R.	White, P. L.

Majority of 2 for the noes.

New clause thus negatived.
Bill reported with amendments.
Bill read a third time and passed.

GAS (TEMPORARY RATIONING) AMENDMENT BILL

The Legislative Council agreed to the amendment made by the House of Assembly without any amendment.

ADJOURNMENT

At 11.34 p.m. the house adjourned until Wednesday 26 May at 2 p.m.