HOUSE OF ASSEMBLY

Tuesday 13 September 2005

The SPEAKER (Hon. R.B. Such) took the chair at 2 p.m. and read prayers.

STATUTES AMENDMENT AND REPEAL (AGGRAVATED OFFENCES) BILL

The Hon. K.O. FOLEY (Deputy Premier): I move:

That the sitting of the house be continued during the conference with the Legislative Council on the Statutes Amendment and Repeal (Aggravated Offences) Bill.

Motion carried.

ASSENT TO BILLS

His Excellency the Governor's Deputy, by message, assented to the following Bills:

Ambulance Services (SA Ambulance Service Inc) Amendment,

Appropriation,

Chiropractic and Osteopathy Practice,

Citrus Industry,

Education (Extension) Amendment,

Fire and Emergency Services,

Heritage (Beechwood Garden) Amendment,

Heritage (Heritage Directions) Amendment,

Law Reform (Contributory Negligence and Apportionment of Liability) (Proportionate Liability) Amendment,

Occupational Health, Safety and Welfare (Safework SA), Amendment

Parliamentary Superannuation (Scheme for New Members) Amendment,

Statutes Amendment (Local Government Elections),

Statutes Amendment (Sentencing of Sex Offenders),

Statutes Amendment (Universities),

Trustee Companies (Elders Trustees Limited) Amendment.

PUBLIC FINANCE AND AUDIT (REFUND OF SMALL AMOUNTS) AMENDMENT 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.

BUTTFIELD, DAME NANCY, DEATH

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

That the House of Assembly expresses its deep regret at the death of Dame Nancy Buttfield DBE, first woman senator for South Australia and respected community leader, and places on record its appreciation of her distinguished service and that, as a mark of respect for her memory, the sitting of the house be suspended until the ringing of the bells.

This afternoon we honour the life and remember the significant contribution of one of the pioneering women of public life in this state, Dame Nancy Buttfield. Dame Nancy was the first South Australian woman to sit in any parliament, state or commonwealth. She served South Australia in the Senate during two periods for a total of 16 years from 1955. So, when you think about it, I think this parliament was the first jurisdiction in the world to give women the right to stand for parliament in 1894, and it was certainly the second in the world after New Zealand (which did it the year before in 1893) to give women the right to vote. Of course, it took many years after that for a South Australian woman actually to be elected to parliament, despite numerous attempts.

Throughout her career, Dame Nancy showed terrific energy and compassion. In her no-nonsense way, she advanced the interests of women and sought to improve the lot of the disadvantaged. After a lifetime of hard work and achievement, both in and outside the field of politics, she passed away at the age of 92 on Sunday, 4 September.

Nancy Eileen Holden was born in Adelaide on 12 November 1912, the daughter of Sir Edward Holden, a name synonymous with the Australian car industry and he himself a former parliamentarian. She married Frank Buttfield in 1936, and I think I had the privilege of meeting Dame Nancy only once, but I met Frank on a number of occasions. In fact, during the time I worked for John Bannon he would sometimes phone me about issues, always introducing himself as a friend of Clyde Cameron and Jack Wright. Nancy and Frank had two sons, Ian and Andrew. She was said to have inherited her father's leadership abilities, and early on she demonstrated great intellectual curiosity and a willingness to help others. Indeed, she was what we would today call an outstanding volunteer. She worked for many charities during the Great Depression, and she maintained virtually a lifelong connection with groups working in the broad field of social services.

Educationally, Dame Nancy Buttfield was a high achiever. She studied psychology, music, logic and economics part-time at Adelaide University. Later, when her sons enrolled in carpentry lessons, she enrolled with them. Her father's friendship with former prime minister Bob Menzies, involvement in debating and the so-called 'model parliament', along with a family belief in public service, saw her develop a strong interest in politics. Despite Menzies' advice that the 'machine' side of politics would drive her mad, Nancy Buttfield joined the Liberal Party. Not long afterward she defeated a young Robin Millhouse, later to become attorney-general and now, I think, Chief Justice of—

The Hon. M.J. Atkinson: Kiribati, and supreme ruler—

The Hon. M.D. RANN: I am not sure if he is supreme ruler.

The Hon. M.J. Atkinson: The government fell.

The Hon. M.D. RANN: The government fell and he was for a time supreme ruler of Kiribati. Not long after she defeated a young Robin Millhouse for pre-selection for the federal seat of Adelaide. Although she lost the following campaign in 1954 to Labor's Cyril Chambers, she still managed to record a solid swing to the Liberals. She quickly became one to watch.

Dame Nancy seized her chance in 1955. Following the death of Senator George McLeay, this parliament endorsed her for a casual vacancy. At that time, she was one of only a handful of women in federal parliament and just the fifth woman to enter the Senate. At home, she moved in the circles of the prominent and powerful. People such as Don Bradman, Sir Douglas Mawson, Nellie Melba, Anna Pavlova and Essington Lewis were all visitors to the family home on Dequetteville Terrace. In her role as senator she met leaders like the great Pandit Nehru, founder of Indian independence and Madame Chiang Kai Shek.

At the height of the cold war she also blazed a trail by visiting the Soviet Union and China, which was an extraordinary thing for someone to do at that time. Nancy Buttfield was considered 'feisty'. She was not at all intimidated or

overawed by her male colleagues, some of whom she reportedly described as 'tunnel visioned', 'misogynist' and 'senile old wet blankets'. It was also said that her rather independent frame of mind got her offside with South Australia's great premier, Tom Playford. Close to the end of her parliamentary career, she wrote a piece for the Adelaide *News* in which she supported and defended the role of women in public life. Indeed, she believed that women had 'an added responsibility to take a hand in the national housekeeping of political affairs'. She felt that women 'must be willing to accept the challenges, and to take the continual criticisms.' 'Above all,' she wrote 'they must fight, not with aggressive militance, but with intelligent marshalling of resources and good organisation of supporters.'

Nancy Buttfield's practical approach to politics saw her become heavily involved in social policy. Her maiden speech in the Senate foreshadowed an abiding interest in immigration. In the early 1960s, Dame Nancy lobbied the Prime Minister on the issues of equal pay for women and the abolition of the marriage bar against women in the Public Service, and she did excellent work on the Senate Standing Committee on Social Welfare, including work relating to social service entitlements, aid to the blind and repatriation.

Nancy Buttfield was made a Dame Commander of the Most Excellent Order of the British Empire in 1972. She left the Senate in 1974. During her retirement she certainly did not slow up. She and her husband established the Youth Venture Club, which gave young people the chance simultaneously to experience life in the countryside, as well as develop leadership skills. Well into her retirement, she remained highly respected throughout the state for charity fundraising.

Mr Speaker, Dame Nancy Buttfield was a fine South Australian and an excellent role model for women, both during her period in politics and thereafter. She had tremendous energy, determination and great courage. She broke through barriers at the time, not just doing things such as going to the Soviet Union and China during the Cold War, not just her views on immigration, but also because she reached across the political divide, according to her ALP friend and colleague Clyde Cameron, 'when parties seemed to prefer a second-rate male to a first-rate female'.

I pay tribute to this pioneering woman of South Australian and Australian politics. I extend my condolences to her family, especially her sons Ian and Andrew and her five grandchildren. With all members of this house, I commend Dame Nancy Buttfield for her lifetime efforts to improve the lives of South Australians and all Australians. May she rest in peace.

The Hon. R.G. KERIN (Leader of the Opposition): On behalf of the Liberal Party, I second the Premier's condolence motion and express our regret at the passing of Dame Nancy Eileen Buttfield, the first South Australian female Senator. I wish to place on record our appreciation for her distinguished public service. Mr Speaker, I ask you to convey to Dame Nancy's family our deepest sympathies and appreciation for the contribution she made to the nation upon her election to the Senate in 1955.

Born in 1912, Dame Nancy Buttfield was the first South Australian woman to be elected to the federal parliament, serving as a Liberal Senator for 16 years. She was initially described to a public that was unaccustomed to women in political representation as a 'fit and proper' person to represent the state in this capacity, and certainly proved her worth as she fought for the betterment of our society. Certainly, along the way she proved that gender is insignificant in relation to a person's suitability to hold office.

Dame Nancy's entry into politics was not totally surprising. As a daughter of Sir Edward Holden, a former member of the state Legislative Council, she was familiar with the political realm and what it took to succeed in a somewhat volatile environment. She was a determined advocate for the interests of her fellow South Australians and highlighted the importance of tourism, immigration and overseas trade for the future prosperity of our economy. However, most notably she fought tirelessly for the equality of women in the workplace, particularly equal pay, and for the abolition of the marriage bar for women in the Public Service. She was known to be a good fighter and a self-confessed risk taker. She visited the Soviet Union while the Cold War was still rampant. She received special permission to visit China in 1962, despite being a well-known anti-Communist. She crossed raging torrents in Papua New Guinea and visited the remote mountain tribes. She can very accurately be described as a trailblazer, both in political terms and for her pioneering spirit.

Women like Dame Nancy led the way for Australian women into politics and public life. It was a move which enriched the political process in this nation. The Liberal Party is proud of its women, who have always led the way and continue to do so. Many women aspiring to political life no doubt greatly respect Dame Nancy and her colleagues and their significant achievements. Her contribution will never be forgotten. She continued to make a big contribution to South Australian life long after her retirement from politics, including in the media.

South Australia is much richer for Dame Nancy's contribution. I am sure all members present will join me in paying respect to the late Dame Nancy Buttfield and acknowledging the most worthy contribution that she made to our nation.

The Hon. L. STEVENS (Minister for Health): I also offer my condolences to the family of Dame Nancy Buttfield. Dame Nancy was a very special woman, and her achievements are remarkable. Even though South Australian women had enjoyed the right to vote and stand for election since 1894, in 1901 Federation extended this right to enable women to vote and stand for election to the federal parliament. However, it was not until 1955 that Dame Nancy became the first South Australian woman to enter the Australian parliament. She served as a senator for 16½ years, from 1955 to 1965 and then from 1968 to 1974. South Australia did not send another woman to Canberra until 1977, when Janine Haines joined the Senate, followed by Dr Rosemary Crowley in 1983. Dame Nancy's contribution to politics and public service was recognised on 1 January 1972 when she was appointed to the Order of the British Empire (Dames Commander).

Born into a life of privilege, the daughter of Sir Edward and Hilda Holden, she nevertheless had a strong belief in the obligation of public service, and she held strong views on women's rights. As others have said, in 1962 she joined with her fellow women senators to lobby for equal pay for women and the abolition of the marriage bar against women in the Public Service. Even though this made her unpopular in her own party, she always met head on any evidence of what she considered male prejudice. That attitude was shown when she took up her right to drink at the members' bar at Parliament

House. She knew that that is where politics were discussed and decisions made, and she was certainly going to be there.

Dame Nancy was an active member of the Senate Standing Committee on Social Welfare and took part in inquiries relating to social service entitlements, ultrasonic aids for the blind and rehabilitation services for the disadvantaged. She also chaired an inquiry into repatriation. As the health minister, I acknowledge Dame Nancy's work as a member of the Senate Select Committee on Drug Trafficking and Drug Abuse. I also acknowledge the work of one of her sons, Dr Ian Buttfield, who for many years worked with the Drug and Alcohol Services Council here in South Australia,specialising in the treatment of chronic pain.

Dame Nancy lived in a time when political parties were reluctant to endorse women candidates. Certainly her journey to the Senate was not without its pitfalls, as she often found herself relegated to the bottom of the ticket in unwinnable positions. This was the case in the 1965 election. However, you cannot keep a good dame down, and she showed her courage and fierce determination in returning to the Senate in the 1968 election. Sadly, she decided to retire at the 1974 election when, once again, she was placed low on the ticket.

All her life, Dame Nancy Buttfield never shrank from speaking her mind and doing what she felt was right. Among her other firsts (and it has been mentioned previously) was being the first woman senator to visit the Soviet Union during the Cold War. Also, despite being a convinced and known anti-communist, she wrote to Premier Chou En-lai and got special permission in 1962 to visit China.

Even during her retirement, Dame Nancy and her husband Frank established a youth venture club on their property, where over 10 000 young people have enjoyed bushwalking, horse riding, archery, and canoeing and kayaking on a large dam. Women such as Dame Nancy certainly were the trail blazers for other women to follow in terms of service in our parliaments. I extend my condolences to her sons Ian and Andrew and their families.

Mrs HALL (Morialta): I also rise to support the condolence motion for Dame Nancy Buttfield. Many of us in this chamber have seen the movie *South Pacific* and probably well remember much of the music, and one song in particular entitled *There is Nothing Like a Dame*. When one listens to the lyrics, or part of the lyrics, of that song, it seems to me to be quite appropriate when we think about and acknowledge this remarkable woman whom we are honouring today, Dame Nancy Buttfield, because she was one amazing dame. Dame Nancy was remarkable in many ways, some of which I will outline today. However, she will be remembered in particular (as has already been said) because she was the first South Australian woman to sit in an Australian parliament.

This trailblazing woman, Nancy Buttfield, took her place in the federal parliament as a Liberal senator for South Australia in 1959, nearly 50 years ago—and that was more than 60 years after South Australian women had won the right to vote and the right to stand for parliament, as we know, in that historic vote in 1894. As has been said, she was born in 1912 and died at the age of 92 on 4 September. Dame Nancy served as a Liberal senator for more than 16 years, and she has variously been described as feisty, a risk taker, a person with a view on every subject—sometimes with extremely politically incorrect views—ranging from her views on the church, beauty contests, miniskirts, and the one on which she was particularly vocal in the Liberal Party, namely, the shame of not enough women in senior positions in the Public Service, the judiciary and politics.

Dame Nancy fought very strongly and loudly for equal pay for women, and she was the most formidable advocate for lifting the ban imposed on women being able to continue in their employment within the Public Service after marriage—and I know that was one of the achievements of which she was very proud. Senator Buttfield passionately called for increased immigration, along with supporting increased resources and services to support the new immigrants. She particularly focused on the need and duty (in her words) for government to look after people who through ill-health, old age or disaster may have been overlooked.

In her maiden speech (and we are talking about 1955), Dame Nancy outlined why Australia's first nuclear power station should be built in South Australia and why our state should be a member of the Atomic Energy Commission. She spoke of the importance of overseas trade and the potential of tourism as a major economic generator for this country. During her political service, as has been said, she served on the joint committee on foreign affairs, and I am told she never held back from extolling her views from the senate standing committee on health and welfare and the committee on drug trafficking and drug abuse.

Dame Nancy had a huge number of friends within and across the political divide in this country and within and across international borders, some of whom have been mentioned earlier. But she had one friend in particular, which probably astonished people from both sides of the political spectrum. It has been well documented, and it is an icon within the Labor Party and former Whitlam minister, Clyde Cameron.

The Premier has already referred to the quote, but I still find it amazing when I hear Dame Nancy's version of some of the additions that were in the original quote which had to be edited before it was used in the foreword to her book. The authorised quote stated:

> She had been elected to parliament at a time when the parties—but not the electors—seemed to prefer a second rate male to a first rate female.

I understand that there are some wonderful handwritten notes of what that original quote said.

This condolence motion for Dame Nancy Buttfield in so many ways is quite historic because it marks the end of an era, as Dame Nancy was the last of the parliamentary women 'firsts', and all of whom, I am very proud to say, were members of the Liberal Party: in 1955 until 1974, as we know, Senator Nancy Buttfield; and, from 1959 until 1973, the Hon. Joyce Steele, elected to this parliament and who sat in this chamber and whose magnificent portrait by Robert Hannaford still looks over us now. She died in 1991.

I refer also to the Hon. Jessie Cooper MLC, who was a member of the Legislative Council from 1959 to 1979, and who died in 1993. In 1996, the first woman elected from this state to the House of Representatives as the member for Kingston was Kay Brownbill, who died in 2002. So, it is quite historic that Dame Nancy is the last of the first four women to pave the way for women in politics in this state. As I have said, it is sad that they have all now gone, but their achievements are well recorded, and all of them have made an enormous contribution and have probably made it a little easier for women to follow in their footsteps to serve in our state parliaments and our federal parliament.

As has been said, Dame Nancy retired from politics in 1974 and redirected her very considerable energies and

talents into writing and the establishment of the adventure camp for young people on the family property at Chain of Ponds (the Fairfield Youth Venture Club). She then set up the Dame Nancy Buttfield Biennial Prize for Decorative Arts, which generously covers scholarships in a range of handicrafts, pottery, embroidery, silverwork, her beloved carpentry and woodcarving and, just a few years ago, gave her name, along with those of Sir Hans and Sir Douglas, to a new variety of South Australian cherry. Hers, of course, had to be different, and is a white fruity cherry. Amongst her hobbies and interests before politics, Dame Nancy listed company director and charity worker. Travel was her passion, and her official CV lists her part-time university study in psychology, music, economics and logic, which she advocated the need for more of in parliament. Later, she also added to that list carpentry, farming, sport and handicrafts.

Many of us who knew her and who had been on the receiving end of the odd bit of advice knew that Dame Nancy had a most distinctive and individual manner of speech. She had an extraordinarily infectious laugh, along with the most mischievous sense of humour. She used these skills most effectively in her long-running career on Radio 5DN as one of 'Mel Cameron and the Girls'. Paul Linkson and Nancy's *Fair Go* program was not only long running but also rated extraordinarily well.

Time dictates that I provide just a snapshot of a person whom I admired. Dame Nancy must be remembered as a most remarkable individual and a political pioneer with many achievements that have benefited a diverse range of women and the wider community.

Some years ago, as the President of the Federal Women's Committee of the Liberal Party, I had the privilege of hosting a special dinner for Dame Nancy to recognise and celebrate her contribution to the Liberal Party, to women and to the South Australian community in particular. It was quite a dinner, because another dame, Dame Margaret Guilfoyle, travelled to Adelaide to join the Women's Council of the Liberal Party to pay special tribute to this remarkable, energetic, strong, strong willed, talented and very generous woman. She reminded us on many occasions that evening how things have changed (in her view, not necessarily for the better) but also how in so many ways they had also remained the same. In one of her last interviews on her remarkable life, she reflected on the changes that had taken place in the community and political life over 50 years and reminded us all to remember why we had been elected to parliament when she said, in part:

> The media have made today's politicians lazy. They know they must have a TV image to succeed, and many of them are more image than substance. Modern politics increasingly lacks statesmanship. Debate has become a matter of insult, abuse and point scoring rather than a means of trying to resolve important national and local issues in calm and careful ways by sensible discussion and negotiation.

She used to quote that to a number of the younger women coming through the political system. I extend my sympathy to Dame Nancy's family and thank them for sharing her and her life with so many people.

Ms RANKINE (Wright): I, also, would like to pay tribute to the life and contribution of Dame Nancy Buttfield. South Australia boasts being a state of many firsts. In the political arena we were the first state in Australia to grant women the right to vote—the second in the world—and we were the first place in the world to grant women the right to stand for parliament. I have to say that I am inspired when I come in here every day, as I am sure the other women are, as we view these magnificent tapestries that celebrate women's suffrage here in South Australia—and long may they hang in this chamber. However, it took another 61 years before a woman was elected, and in 1955 Dame Nancy Buttfield was elected to the Senate.

It was another four years after that before we had women elected to the South Australian parliament with the election of Joyce Steele as the member for Burnside in 1959 and Jessie Cooper elected to the Legislative Council that same year. As the member for Morialta pointed out, all three women were conservatives, and it was not until 1968 that the first Labor woman member of parliament was elected, with Molly Byrne taking her place in this house as the member for Barossa. I am pleased to say that the Labor Party has made up for that deficiency ever since. These women were truly pioneering women. We talk often about someone being the first this or that, but very few of us really understand the pressure of being the first.

To be the first woman ever elected to that bastion of maleness, the federal parliament, in 1955 would have been incredibly daunting and extremely difficult. However, from what I have read of Dame Nancy Buttfield, it would appear that she was no wilting violet and she embraced the challenge. Dame Nancy described herself not as a feminist or radical in any way: simply, a woman of action. However, in her autobiography, when referring to Billy Wentworth's attitude towards her, which appears not to have been particularly warm, she said:

> This didn't concern me unduly, because my adage was: push your own barrow, buy your own drinks, open your own doors and carry your own loads.

I do not know about other members, but that sounds fairly strident and radical to me, coming from a woman who was a wife, a mother and a member of parliament in the 1950s. This was at a time when working wives were described as a menace to society. Dame Nancy said she thought that a wife's life, family life, was central to women but should not be seen as the boundary to their lives. She was also, as the Minister for Health said, the first woman to enter the members' bar in Canberra: again, a daunting prospect when women did not enter public bars at all. Instead, they were generally left out in the car with the kids, who might be treated to a raspberry and lemonade. I was delighted to read that Clyde Cameron did not miss the opportunity when she entered the bar, and had a round of drinks ordered on her bill as quick as a flash.

These two people went on to form a lifelong friendship, irrespective of their political differences, and clearly respected one another. As has been said, Clyde paid tribute to Dame Nancy in the foreword of her autobiography, and I thought it worth quoting more extensively than has been done so far. I think the foreword says a lot about Clyde as well as about Dame Nancy. He said that he had known her at that time for almost 50 years, and continued:

> Even though we served on opposite political sides of the national parliament, our political differences never affected my long years of personal friendship and respect for her. Dame Nancy was the first woman in South Australia ever to be elected to a parliament. Not only was she elected to the Senate, the most prestigious chamber in the nation, but she was elected at a time when women were considered to have been treated more than generously by even being allowed to vote. It was a time when the parties (but not the electors) seemed to prefer a second-rate male to a first-rate female.
>
> This autobiography gives a glimpse into the mind and make-up of one of the most courageous parliamentarians I have ever known. Dame Nancy would never embrace an idea unless she believed it to

be right, and I have always preferred someone who is honestly wrong than some sycophant who, in my opinion, was dishonestly right.

Dame Nancy was made to pay a terribly unfair price for her refusal to become a groveller to the Liberal Party machine. Instead of proudly holding her up to the electorate as a shining example of what distinguished the Liberal Party from other Parties, its shabby treatment of this brave and highly intelligent woman proved that the Liberal Party had all the defects its opponents alleged against it.

Members interjecting:

Ms RANKINE: Calm down, it's a quote. He also went on to say:

> [She] was one of the most amazing women of this century. . . She had all that was needed in heart and between the ears. But she was passed over by jealous males because she was too straight.

Now, it would not be a Clyde Cameron quote, I guess, if there was not a bit of a sting in the tail. Clearly, he can still exact a response.

Dame Nancy lived through a time of enormous change both environmentally and socially. She clearly enjoyed her political involvement, but was frustrated by it and at times disappointed. Dame Nancy, as we have heard, came from a wealthy conservative family but expressed many views that would have been considered extremely radical at the time. Dame Nancy was a pioneer who helped pave the way for women to follow in taking up public life. With her passing, we have lost a dedicated and committed South Australian. I extend my condolences to her family.

Mr BRINDAL (Unley): Dame Nancy Buttfield was indeed a remarkable woman. She was, as some of my colleagues on both sides of the chamber have already said, a trailblazer. It is interesting that this parliament boasts that it was the first parliament to give women the right to vote in Australia, and the first parliament in the world, I think, to give women the right to run for public office. Yet it was after 30 years of trying that Senator the Hon. Dame Nancy Buttfield was first elected to parliament, and it is the great privilege of this party that the first woman ever elected to a parliament in this state comes from the Liberal Party, and it is no accident, because to break the glass ceiling is not difficult, and if the glass ceiling is possibly broken it can be broken on this side of politics.

While I acknowledge the quotes of the Hon. Clyde Cameron that in many ways she was not prepared to grovel, she was a person who in many chances defied the machine which is the Liberal Party and suffered because of it, indeed being relegated to third place on the ticket on a number of occasions, and in the end, if you read between the lines, giving up her seat in the Senate because she was again, after all those years, relegated to number three. But at least the Liberal Party gave her the opportunity to get there 16 years before the ALP offered a similar opportunity, and at the same time that the ALP was fitting up people and having them jailed for not quite conforming to their example of the ruling paradigm. So when we are talking about difficulties—

The Hon. M.J. Atkinson: Could you give us a bit more detail?

Mr BRINDAL: Bert Edwards, I think the guy's name was, was it not? And Don Dunstan, if we want to talk about those sorts of things in the condolence motion. The point is that it is not easy to be a trailblazer. It could not have been easy for Dame Nancy Buttfield, but she broke through the glass ceiling, and she did it in a way that the rest of this nation can be most grateful for. It is interesting to look back on some of the things that she as a woman had to do to get into politics and remain in politics, and her legacy for the women who come after her.

As we are all products of our time, I do not say that she did not believe this. She describes herself on entering politics as being a lady of leisure and a social worker, and the product of a reputable family. Most remarkably in 1955, she said the following:

> Women are no greater gossips or talkers than are men, in spite of an endeavour from some to contend that they are.

She then went on to say (and this was the remarkable thing):

> Some women never develop beyond this routine state.

She said that often women's brains mature later than men's because of this 10 and 12 years they spend caring for children. She stated:

> Some women never develop beyond this routine state. This is one reason why there will never be many women in important positions. Men value material things first while women, the givers of life, value people, life and their feelings.

I do not say that to put Dame Nancy down: I say that rather to explore the context of the times in which she sought to do something that was different, times when not only were there women who did not vote for her. There was a famous occasion when Dame Nancy lost her position in the Senate because she was relegated to No. 3 on the Liberal ticket, yet the number of first votes she received in that election indicated that she would have easily been endorsed by the people of South Australia as a senator. However, because of problems within the Liberal preselection processes and because of the fact that she was a woman, she was put in the No. 3 position several times. So, it was a problem not only for the parties and the ruling paradigm at the time but it was also a problem in the psyche of the very people such as Dame Nancy who were contending those positions.

Nancy Buttfield never accepted the routine or the mundane. Indeed at 18, when her formidable father told her that she could not go to Colombo and that he would not give her the money, she saved her own fare and went there in spite of him. She was, in fact, a formidable woman and a trailblazer; she was, in fact, one of those people who have given us all the right to have so many women represent us in parliament today. As a product of her times she was not always right, but she provided a valuable first step that this house, in expressing its condolences today, acknowledges. We owe a debt to people like Dame Nancy and to people like Don Dunstan; people who have the courage to be different, to stand up and acknowledge difference and to be the first to stand up and say, 'We don't care what everyone else thinks; we want to do something to show the world it can be a better place.'

Dame Nancy was one of those people, in spite of a husband she described in one instance by saying, 'He often tells me to shut up. Of course, he is very conservative indeed.' In spite of her husband, and in spite of both a prime minister and a state premier at the time who were most conservative, Dame Nancy Buttfield did not accept the paradigm. She made a mark, and she made the world different through her passing. I think this parliament owes a debt of gratitude to Dame Nancy, and I commend this motion to the house. My condolences to the family and, in conclusion, I say, 'Well done, Dame Nancy.'

Honourable members: Hear, hear!

Mr RAU (Enfield): I want to make a few remarks about the late Dame Nancy Buttfield as an individual, not as a woman or as a member of parliament. I had the privilege of

knowing her over many years, although obviously not as well as many. I always found her to be a great character, a very generous person with a very keen sense of humour, and a great culinary expert. It is interesting that remarks have been made about her strong views on communism. Having looked through some of the federal election figures for the 1950s, it is my recollection that on at least one occasion she was elected to the very difficult third Senate position in South Australia, when there were only five positions up for grabs, on the basis of the preferences of the Communist Party candidate, Mr Jim Doyle. It has always amazed me that we should have Jim Doyle and Dame Nancy Buttfield brought together through the irony of the preferential system in a Senate campaign.

I would also like to briefly mention a recollection of a personal nature. In about 1984 I was invited to dinner at the Buttfield's home in Strangways Terrace, and I recall walking in and being surrounded by a number of people. It was quite an interesting evening, because I was introduced to the other people there as being a young communist. That was on the basis that at that stage I was a member of the Labor Party. Other people were introduced as being a struggling artist and so on. We sat down and there was a very elaborate table laid with candelabras. The grandchildren, as I recall, were serving at the table, and it was quite overwhelming for me because that was not the standard performance at my home, that is for sure. I recall that there was beautiful china and cutlery, and the first course involved a soup. I remember tasting this soup and thinking it was magnificent; it was obviously a seafood of some description. After I had completed this very fine soup, Dame Nancy said to me, 'What did you think of that?' I said, 'Well, it was very nice indeed. I am not sure what it is, though; it is obviously seafood.' She said, 'Well, it's actually made from a crustacean from New Zealand,' and she gave me the name of this particular crustacean. I said, 'Well, look, I have never had that before.' She said, 'Well, you're unlikely to have it again too, because it is now extinct. I got the last lot!' I assume that is another example of her humour.

She was a great character, a great individual and, in my experience, a very generous and warm hearted person. She would give her handicrafts to people, and she was very giving of her time for charity purposes. I think she is a great loss.

Ms CHAPMAN (Bragg): I join with other members including the Premier and the Leader of the Opposition in expressing my condolences to members of the family of Dame Nancy Buttfield, in particular, her sons Ian and Andrew, and her brother, John Holden. Much has been said about the life of Dame Nancy and I will not traverse the interesting events of her 16 years in the Senate or her incredible achievement, other than to say that I am proud to be a female in the House of Assembly in the state parliament which was the first in the world to pass legislation to enable women to enter the parliament. Much has been said about that history, and probably it is just an accident of fate that there were sufficient wise members at the time to move an amendment to include the right of women to stand for parliament in the franchise legislation which culminated in 1894 not only in giving women the right to vote but also in the unusual and unprecedented step of giving them the right to stand for parliament.

So, Dame Nancy has the honour not only of being the first woman from South Australia to enter the federal arena and, in particular, the Senate, but also of doing so in 1955 which, I think is worth remembering, was a time when Aboriginals in Australia did not have full recognition. It was a time when women were required by law to conclude their employment in the Public Service upon marriage. It was a time when, whilst they had equal recognition in relation to guardianship of children from the 1949 legislation—again pioneering from this chamber—the rights of women were significantly less in property ownership, in full franchise voting, and in the right to remain in employment in the Public Service when married. Even private companies, including airlines, required women to retire at the time of marrying. Mostly they were not pilots, but air hostesses (as they were known at that time) were required to terminate their employment. So, she came into the parliament in a social environment which was very compelling.

Much has been said about Nancy Buttfield's attempts to get into the parliament via the Liberal Party. I would add this: I have been through some of the historical records of the Liberal Party, and this was at a time when instructions to candidates were such that they were advised that they should not doorknock during the day because:

> They are likely only to find the housewife at home and she will, of course, have to wait her instructions/advice of her husband.

So, in order to fully appreciate the commitment and dedication that Dame Nancy had even to put up her hand to ask Sir Thomas Playford to recognise her in the opportunity to stand for preselection was monumental. When Mr McLeay passed away in 1955 and she put up her hand to beat Robin Millhouse by one vote, she was in an environment where everything was against her. I think it is a great tribute we pay today to Dame Nancy in that environment.

Of course, she followed her father, who had served in the Legislative Council between 1935 and 1947. I will not dwell on Sir Edward Holden, who was a very prominent industrialist in this state. It is worth remembering on this occasion that Dame Nancy, by virtue of coming from a family who had made, and continues to make, a substantial contribution to this state, had the opportunity, prior to entering parliament—bearing in mind she was a mother with children—to travel to England to meet with Conservative Party women in England, view what occurred in Westminster, and be inspired, encouraged and advised to go back to Australia to take up the challenge for Australian women.

On a personal note, I say that her work in achieving rights for women in the Public Service has not gone unnoticed amongst women in South Australia. Personally, I have an interest in a property which is now the Harbors Board Building in Victoria Square. It was the first place in South Australia to employ a woman in the Public Service. Dame Nancy gave an opportunity for women not only to achieve high office in the Public Service but also to take on director/chief executive positions—and that should never be forgotten by the women in South Australia. I commend her for the great contribution she made.

In closing, unlike other speakers, I personally found her a fairly difficult woman. The member for Morialta has referred to the dinner which the Liberal Party women held in her honour. Because I was low in the pecking order at the time, it was my job to greet her at the door and to welcome her after the guest speaker from Melbourne had arrived. Of course, the other Dame had been taken in to be seated. I was given the job to wait outside to welcome Dame Nancy, who was fashionably late; of course, it was a dinner in her honour so she was entitled to do that. She did not say to me 'Hello Vickie,' or anything else, but, rather, 'Where am I seated?'

I said, 'Well, Dame Margaret Guilfoyle is at the head table.' She said, 'Where am I seated?' I said, 'You are at the adjacent table.' She said, 'Well, I will not be going in until I am seated at the head table.' So, I immediately took my marching orders to ensure that that was attended to, and of course she was welcomed on that occasion and duly given her appropriate seating.

Dame Nancy made a fantastic contribution to South Australia. She made a fantastic trailblazing opportunity for women in political and public life. We commend her for that. I have no doubt that she negotiated with her usual aplomb with Saint Peter to get into Heaven, and she would be up there organising them all right at this minute. I extend my condolences to the family.

The Hon. S.W. KEY (Minister for Employment, Training and Further Education): I rise to support this motion and express my great regret at the passing of Senator Dame Nancy Buttfield DBE at the age of 92, and I give my condolences to her two sons, Ian and Andrew, and her five grandchildren. I never had the privilege of meeting Dame Nancy, but I went to a girls technical school for my sins and Dame Nancy was one of the women who was held up to us as an example of a fine woman whom we should aspire to support. As a schoolgirl I knew a fair bit about Dame Nancy as one of the women of great importance in South Australia.

As other speakers have said, she certainly is a pioneer for women, particularly women politicians. I guess the sad point is that, although some great gains have been made in the public sector, particularly for women, the issues of women's rights, equal pay and conditions for women—areas she fought and argued for—are still issues to be dealt with. I understand that she was a very important part of her political party and faced the issues that all women face in political life.

I was interested to read that, although she was a radio star in later life, she made quite a few comments about the media and the different way in which women were treated in the media compared to men—and I have to say that I do not think that has changed very much, and it is a sad comment on where we are today that that is still the case. I also was very interested to read that she had been such an amazing contributor to the community, particularly to the different groups that she served. I understand that Dame Nancy was a member of both the Commonwealth Advisory Council for the Handicapped as well as the Commonwealth Immigration Advisory Council. She was the vice president of the Good Neighbour Council, a member of the senate standing committee on social welfare, and served on the women's committee of the Queen Victoria Maternity Hospital. I also understand that she co-managed the Mile End Maternity Hospital.

Even on retirement her work continued. We have heard about the youth venture club that she and her husband established, and one of the staff in the office for women recalls attending some of those camps as a young person and how exciting it was for a country girl to come to the Adelaide Hills and be part of those leadership and confidence-building camps. One of the things she also recalls is that young women and girls were encouraged as much as young men and boys to be part of those youth venture clubs.

I think there is definitely a theme that runs through Dame Nancy's life that is quite inspirational and, as other members have said, she is certainly someone we can hold up as a 'shero' in South Australia.

The Hon. P.L. WHITE (Taylor): I also support this condolence motion for Dame Nancy Buttfield. I did not know the great dame, but much has been written about her. Indeed, the Mortlock Library has quite a collection of her personal papers, diaries and scrap books, as well as some sound recordings of interviews she has given or interviews that she has made with other people. When you hear her speak you cannot help but know that she was a robust woman, a feisty woman indeed, and a woman of some great substance. In fact, she obviously had a bit of a sense of adventure.

Dame Nancy went on several dangerous journeys, as we heard earlier in the debate—through Soviet Russia during the Cold War, through Mao Tse-Tung's China, and visiting remote tribes in the Papua New Guinean highlands. She was a woman of adventure who got up and took action.

I think this is something to be noted particularly because she was a woman of some privilege as well. Her father, Sir Edward Holden, is noted as the primary founder of the Australian car industry. He was a very powerful man and, indeed, a very wealthy man, so it would have been very easy for Dame Nancy to live the life of the idle rich. But that is not how she chose to spend her hours. She believed in giving good public service, and she devoted her life to others through that service. Of course, her service did not stop with her 16½ years in the federal Senate. She went on to do many works of great philanthropy and dedicated her life to the arts and young people after politics. This is a woman who had a rather crowded life. She was a woman of substance and a woman who contributed greatly to her state of South Australia. I send my condolences to her family and note her passing with some sadness.

The Hon. J.D. LOMAX-SMITH (Minister for Education and Children's Services): I also rise to make some comments and condolences in relation to Dame Nancy Buttfield, who I think stands as a role model and an icon to many women in South Australia and across the whole country. It is worth remembering that, in the context of the idea that some parties preferred a second rate male to a first rate female, there were comments by Dame Nancy that led us to believe that she had often pondered this view. Speaking of when she entered parliament in her autobiography, she said:

> This was at a time when women, despite their qualifications and predominant numbers, were not permitted to become headmistresses at primary schools or mixed high schools. No woman held a senior post in the Public Service.

To that one might add that they even required a signature to gain a passport and could never dream of getting a mortgage in their own right.

What was quite interesting was the way in which she operated in a male domain. Also in her autobiography, Dame Nancy said:

> But precisely because I was a pioneer, I believed I had to treat women's interests carefully so that I would not alienate my male colleagues. Thus I hoped to avoid any criticism which might be directed to women generally, consciously disciplining myself to take the broadest point of view so that I could not be simply dismissed as a woman. My conscious endeavour was to show that women could be the equal of men. It was indeed ridiculous and condescending to repeatedly hear it said—

and this is what enraged her more than ever; she loathed men saying in a condescending manner—

'She's got a man's brain.'

It was always interesting to analyse in her writings her relationship with Frank. On many occasions it was said that Frank was a reluctant supporter of some of her activities, but in his defence she never said, 'Behind every successful woman, there's the man who tried to stop her.' She only ever praised him and said:

> I was particularly fortunate that he continually encouraged my political career, although he decided quite early that he did not like being referred to as the spouse of a member of parliament.

In fact, one of the stories she told was of his entering a boardroom somewhat late to be greeted by the chairman who said, 'Gentlemen, rise, Senator Buttfield's husband has arrived.'

Apparently he also met the Duke of Edinburgh and made a beeline towards him at a meeting or a dinner once and asked him what it felt like to always be walking a few steps behind, and they commiserated at great length about his discomfort in that position. Something that one does not hear about perhaps was her comment to the press regarding 'a pack of senile old wet blankets' when she was referring to the Country Party when it tried to stop the tourist industry being part of a senate select committee. She was commenting particularly on their narrow-minded outlook and decadent politics in not understanding that tourism was an industry of the future. I think she was spot on in those comments.

Following on some of the issues that were spoken about earlier, we have heard that Robert Menzies, who was a friend of her father's, had told her that, if she was considering going into parliament, of course she would have to join a branch, but the party machine would drive her mad. In Stewart Cockburn's book *Notable Lives*, he pointed out that, as a senator, she probably drove them mad and was more effective than they could ever have imagined. What was particularly amazing about this woman was that she had such a breadth of interests, ranging from women's rights and wanting to change and reform the Public Service.

She worked assiduously to get social service reforms. She wanted to have aids for the blind and good rehabilitation services for the disadvantaged. Her breadth of interest was so broad that it is amazing for some people to realise that she is remembered by an arts and crafts award. It seems such a curious thing for a woman of her calibre to be remembered by.

One of the stories which I particularly liked and which might be one we could remember in commemorating her life was that she kept a diary throughout her working and retirement years in which she reflected on the values that guided her life. The comments at the front of the diary read:

> If you think you are beaten,
> You are.
> If you think that you dare not,
> You don't.
> If you'd like to win but think you can't,
> It's almost certain you won't.
> If you think you'll lose,
> You're lost.
> For out in the world you'll find
> Success begins within a fellow's will
> And it's all in the State of Mind.

I commend this to those who wish to follow in her footsteps and aspire to public office, because it teaches you the values of persistence, endurance and hard work, which I think epitomise her life. I also extend my condolences to her family.

Ms CICCARELLO (Norwood): I will be very brief, but I also offer my condolences to Dame Nancy's family. As has been said, Dame Nancy grew up in Kalymna, which is on Dequetteville Terrace and in my electorate of Norwood. Of course, she was one of the Holden family which had done a lot for this state and which was renowned not only in South Australia but also in my electorate of Norwood. She was also the daughter of Hilda Lavis, who lived in Queen Street, Norwood. As has been pointed out, South Australia has been at the forefront of change, being the first in the world to allow women to stand for parliament. So, I think it is fitting that Dame Nancy was a product of the Norwood community.

When she went to Canberra, she was not at all fazed by what she described as the 'pompous Liberal members of parliament' in the federal government. She had grown up amongst many interesting, famous and notable people. She had met Dame Nellie Melba, Anna Pavlova, Sir Douglas Mawson, Don Bradman, Essington Lewis and, of course, Sir Robert Menzies, who was a visitor to the house on Dequetteville Terrace. Many women in not only South Australia but also Australia are very proud of the fact that Dame Nancy stood up for the rights of women, advocated equal pay for women and also lobbied very hard to have the bar removed excluding women from the Public Service once they got married.

I have always had great admiration for Dame Nancy and sometimes used to listen to her radio program with Paul Linkson. But the other day, my admiration knew no bounds when I saw the photograph of Dame Nancy on a tandem bicycle with Sir Hubert Opperman. If anyone has been on a tandem bicycle, they would know that it is not an easy feat. A couple of years ago, I rode on one with the Premier; I was wearing trousers, but Dame Nancy was wearing a nice suit, with a tight skirt and high heels. I think that was certainly a very courageous thing for her to do.

I pass on my condolences to the family. Dame Nancy certainly was a great woman who did wonderful things for many disadvantaged people. She will be fondly remembered by all of us.

Ms BREUER (Giles): I will speak only briefly, because much has been said about Dame Nancy today, but I thank Dame Nancy and pay a personal tribute to her. When I was in my first year at high school in about 1964, I had no great ambitions in life, because I was raised in a very traditional household. I believed that women went to school, went to work for a few years, got married, had children, stayed home and lived happily ever after. The sorts of jobs we worked in were in offices and shops, or nursing. Occasionally some people broke out of the mould and were able to become school teachers. It was a very traditional view on life. One day, Dame Nancy spoke at an assembly at my high school (Whyalla High School).

I have to say that that was a moment of revelation for me, because there was a very sudden awareness that women could do more in life than those things that I described. I had really not thought that before, and I recall that moment and always remember her coming to the school. I remember her being a very tall, gracious, imposing lady in a hat and gloves. I am not sure whether she was very tall, because everyone does look tall to me, and in those days they looked taller still. The only person who does not look tall to me is Joe Scalzi. However, that is how I remember her, very tall and gracious and imposing. It stirred in me a longing that I was not aware of before.

I was very much a working-class girl, a steel town girl, and it was very difficult for me to think beyond the things that I have mentioned. That later developed into an interest and a passion for politics. Of course, my politics were Labor: they did not follow in the vein of Dame Nancy. Much water has flowed under the bridge since then, but I always remember her and I pay tribute to a lady who dared and who had the influence to do the things she did, and the influence that she had on people like me. She had a very personal influence on me and, I am sure, on many other women of her time. It must have been very disappointing for her in the 2003 election when there were still only five women on the Liberal benches, but on our side of the fence we can pay tribute to the work that she did.

She would probably never have described herself as a feminist; I am not sure whether or not she did. Most of that generation did not describe themselves as feminists, but they certainly led the way for women. They were pioneers who made it much easier for us to be here today, and for other young women, our daughters and our granddaughters, to follow in their footsteps and take their place in leading this state and this nation. So, mine is a personal thank you to Dame Nancy for all those years ago (1964 approximately) coming along in that hat and gloves and making me think about my life.

The SPEAKER: I strongly endorse the sentiments conveyed in the condolence motion and will ensure that the condolence motion is passed on to Dame Nancy Buttfield's family. I ask members now to stand in silence.

Motion carried by members standing in their places in silence.

[Sitting suspended from 3.18 to 3.27 p.m.]

MATTER OF PRIVILEGE

The SPEAKER: I respond to the matter raised by the member for Unley yesterday. On the facts as presented by the member for Unley in relation to whether or not the article by Kevin Naughton in the *Sunday Mail* on 14 August constituted contempt, I do not propose to give the precedence accorded to a matter of privilege for any motion the member may wish to move. This decision does not prevent the member from proceeding with a motion on the specific matter by giving notice in the normal way.

In reaching this decision, I am mindful that the member may have taken offence at whatever he sees in the article as being cause for complaint, but in my view the conduct complained of, while it may have been an attempt to cast doubt upon the legitimacy of the member's travel, cannot 'genuinely be regarded as tending to impede or obstruct the house in the discharge of its duties', which is the test described by McGee in *Parliamentary Practice in New Zealand*.

Nevertheless, there are a couple of issues related to the article and to the member for Unley's statement yesterday that are worthy of comment. First, in normal circumstances the public would only have access to any member's travel report and not to any related administrative forms and correspondence. I point out that in regard to that handwritten note that was referred to in the media by the former Speaker, he mentioned matters such as whether meetings had occurred in the morning or afternoon, and issues such as the salinity levels of the Mekong River versus the salinity levels in the River Murray—hardly matters that take away from the quality of the member's report.

Secondly, the reference that 'the file is held in the Parliamentary Library', as an illustration of the member for Unley's assertion that there were deliberate errors of fact in the article, is of itself of no consequence; nor is the suggestion, accurate or otherwise, that 'SA Police also will be seeking access to the files.' If the member for Unley wishes to pursue the intention behind these references as he sees it, he may well be able to do so in moving the motion of which he has already given notice. However, I am satisfied, as I stated at the time, that the member's report complied with the rules governing members' travel, and the fact that the member was able to continue to draw upon his allowance suggests that the then Speaker was as well.

I see no need and do not intend to refer the files to the police or any other authority, given that they were recently part of an examination by the Auditor-General. I agree with the former Speaker that care should be taken by members in providing all the information required in their applications for approval to use their travel allowance, and to this end a new form is being drafted to make the existing requirements clearer. It is important that members and the public are aware that allowances of this type are administered appropriately by those who have responsibility.

In recent correspondence to me, the Auditor-General made the following comment about allowances generally:

> Internal controls are operating effectively to provide reasonable assurance that payments from the allowances are accurately recorded and that members do not exceed their allowances.

In regard to the travel allowance specifically, he observed that:

> The House of Assembly has improved the transparency and accountability of travel benefits provided to members by: having the Speaker table an annual report. . . that details individual member's use of the allowance; (and) placing members' travel reports on the internet for public scrutiny.

He also identified some opportunities for further improvement in accountability and internal controls, and they are being considered. I point out that he gave one example where a member had hired a vehicle and could have provided a bit more detail regarding the hire of the vehicle for a couple of days. That was the only matter under the general area of travel relating to current members that he highlighted as being worthy of particular note. These include requirements for a clearer statement of the purpose of travel and for greater travel details.

In determining the degree to which extra detail might be required in the future, I am mindful that a balance is needed between transparency and members' entitlement to confidentiality, if they consider it necessary. Clearly, members should not be required to give complete and specific details of inquiries they are conducting in every case, nor to reveal full details of their findings until they are ready to do so. If such full details were to be an up-front requirement it would be an infringement of members' rights on behalf of the public interest.

Nevertheless, members will assist the process of administering the travel allowance if they pay due attention to the provision of appropriate and sufficient information at all stages, from application to the presentation of their report.

MEMBERS' TRAVEL REPORTS

The SPEAKER: I lay on the table the House of Assembly Members' Annual Travel Report 2004-05.

TERRORISM

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

Leave granted.

The Hon. M.D. RANN: A fundamental responsibility of the government, indeed any government in our society, is the protection and security of its citizens. The prevention of terrorist attacks must be our principal objective. By gathering intelligence and sharing information with other Australian jurisdictions, we can help prevent terrorist attacks. We must create an environment in which people feel safe and secure in providing information to authorities. We must preserve a society in which radical violent ideologies cannot take a foothold.

Whether the risk to public security arises from internal sources or from external terrorist threats, we as a state must be adequately prepared. In the event that we are ever subjected to a terrorist attack we must be in a position to respond quickly and appropriately, and we must be able to provide for the recovery of the individuals affected and the state as a whole.

These four guiding principles of prevention, preparedness, response and recovery underpin our counter-terrorism effort. It is not possible to accurately measure the risk of a terrorist attack. However, we do know that terrorists have targeted Australians and Australian facilities abroad. We cannot afford to be complacent. Nor can we afford as a community to overreact to the risk. Our approach to dealing with terrorist threats must be clever, and it must be carefully targeted and planned. It must be done cooperatively with the other states, the commonwealth and the private sector. Our response must also be balanced. It must strike the right balance between the necessity to protect life on the one hand and the need to protect our freedom on the other hand. Following the terrorist bombings in London, I publicly called for an extraordinary meeting of the Council of Australian Governments. I believed that it was necessary for Australia's leaders to consider again the state of Australia's counter-terrorism preparedness and what the London experience could teach us. That meeting will be held on 27 September 2005 in Canberra.

The Prime Minister has since announced a number of proposals he intends to submit to state and territory leaders. A number of the proposals, in particular, the adoption of a regime of control orders and preventive detention, are highly controversial. South Australia remains open minded about the Prime Minister's proposals and will need to see the detail before any commitment can be fully considered. In the meantime, the state government will continue to build on its extensive achievements in this area to ensure we are prepared, able to respond, as well as recover, from any terrorist incident or incidents. This week the government approved the drafting of new legislation that will ensure the police have adequate powers to deal with terrorist incidents. The Police Powers (Prevention and Response to Terrorism) Bill will close the gaps in our existing laws when it comes to dealing with terrorism. In the event of a terrorist incident or threat the Police Commissioner, in concurrence with the Minister for Police, may authorise the use of additional extraordinary powers for a defined period.

The extraordinary powers will, in prescribed circumstances, allow police to:

1. require a person who is identified as a threat to provide proof of their identity;
2. search a person who is a threat or is with such a person in suspicious circumstances;
3. search vehicles connected with a threat;
4. search premises that may be connected with the threat;
5. prevent entry or exit from an area which is the subject of a threat or an attack.

The period of the authorisation will be strictly limited and may be revoked at any time by the Commissioner of Police or the Minister for Police. The bill proposes a period of seven days in the case of an imminent terrorist attack and 24 hours for the investigation for a terrorist attack that has occurred. The period may be extended once only to take the total period up to 14 days or 48 hours respectively. Following the incident, the Police Commissioner will be required to report to the Attorney-General on the reason for invoking the authorisation, the extraordinary powers used, how they were used and the result of the use of those powers. The Attorney-General shall then report to parliament in similar terms, subject to the non-disclosure of operationally sensitive information.

The bill that we will introduce will be an important weapon in our arsenal against terrorism. The government is now also considering the adoption of legislation to impose restraint orders preventing individuals from addressing gatherings or otherwise disseminating material which deliberately incites terrorism and mass murder. To be effective, such restraint orders must be adopted nationally, which is why I propose to raise this with other Australian government leaders—the Prime Minister, the premiers and the chief ministers—at the special COAG meeting. The government is exploring ways of establishing a more comprehensive and more integrated system of closed-circuit television (CCTV) surveillance. Closed-circuit television played a large part in the speedy identification and subsequent arrest of the perpetrators of the London terrorist bombings on 7 July and the second attempt on 21 July 2005. Footage from the trains and from the London bomb scenes has also had a number of other important forensic uses.

CCTV has been used for decades worldwide as a public safety and crime prevention strategy. While technology and security staff can only go so far in protecting people and infrastructure against a person who is prepared to die in an attack, enhancing our CCTV systems is part of a sensible range of measures for preventing and responding to a major emergency, such as a terrorist attack.

The use of CCTV has grown over time in South Australia, especially within the central business district of Adelaide as a response to security issues such as theft and trespass, and to do with vandalism, graffiti and community safety. The need for CCTV to be used for surveillance as a counter-terrorism measure now needs to be better integrated into the existing system.

The South Australian government has already funded CCTV for the public transport system in key areas of vulnerability. We will be further analysing our current mass passenger transport coverage to see whether this is adequate. For example, we will be looking carefully at other high priority places where there might be crowds of people, such as transport interchanges.

Video surveillance coverage of the metropolitan area is provided by approximately 50 cameras installed by the

Adelaide City Council, and approximately 350 cameras installed on the rail and bus networks. At present, the CCTV function for Adelaide and its supporting transport network is jointly managed by three different organisations—the Adelaide City Council, SAPOL and the Department of Transport, all with different management and monitoring requirements.

The government is initiating work to achieve as a first priority better coordination in the management of CCTV surveillance systems within the CBD of Adelaide. Last week at a meeting of the Capital City Committee I proposed to the Lord Mayor of Adelaide, councillors and ministers that the committee sponsor a review of CCTV usage in public places within the City of Adelaide. The review will examine what coverage exists and where there might be priority gaps and issues. I expect that a report from that group will provide some guidance on ways forward for our CCTV system in the CBD.

The government has already invested heavily in CCTV and we are prepared to put more money into this important area. We will also be establishing a state register for CCTV to assist police in crime prevention and detection. The government will also be examining its laws of evidence to ensure that this type of material is more easily acceptable as evidence in court cases. We also need to look at whether legislation is required to ensure that surveillance cameras are registered.

The issue of CCTV will also be on the agenda of the COAG meeting on 27 September. I will be strongly supporting a national approach to this important issue, including support for a nationally developed code of practice for CCTV usage to provide a minimum requirement for issues such as data collection, storage, access, use and disclosure, and protection and retention of information across governments and industry, while ensuring that the privacy of personal information is protected.

I will also be raising the importance of involving the scientific and business community on the issue. We have worked with all other governments to have well coordinated and rehearsed procedures to deal with any terrorist threat, as outlined by the National Counter-Terrorism Plan. Our achievements so far have been considerable, including:

- Introduction of improvements to security of transport sector and to other key state-owned assets, such as our water supply system.
- The provision of resources for additional staff, training and equipment in counter-terrorism, especially for our police and emergency services. State-of-the-art equipment has been purchased for enhancing the operational skills of our police. Recently, the Minister for Police and I inspected the equipment, including a bomb disposal robot, and watched a demonstration by police tactical officers from our STAR division in a mock terrorist incident.
- There has been a huge effort in strengthening our laws against terrorism. South Australia has also introduced a new complementary Emergency Management Act 2004 and is following this up with a wholesale review of our emergency plans, including the State Disaster Plan.
- There has been greater emphasis in the state on practising our responses to emergencies. Between 17 and 20 October this year, for example, we will be a major participant jurisdiction, along with Victoria, the ACT, New South Wales and Western Australia in the largest counter-terrorism exercise ever held in Australia, Mercury 05.

  Key field deployments, involving police, health agencies, emergency services and defence forces, will take place in Victoria and South Australia. Some 12 government agencies will be involved, as well as a number of major private sector organisations.

  The exercise will test high level decision making and coordination between the Australian government and the state and territory governments. The Prime Minister, the Victorian Premier, the ACT Chief Minister and I will be participating, as if we had to deal with a real terrorist attack.

Our preparedness and ability to respond to and recover from terrorist incidents will enhance our capacity to deal with other emergency incidents, including national disaster.

Our community enjoys excellent relations between people of diverse ethnic backgrounds and faiths. We want to keep it that way, and we want to protect the rights of all South Australians to observe their faith and conduct their lives without the risk of terrorist attack or persecution. The Attorney-General and Minister for Multicultural Affairs has already met with leaders of the Muslim community and assured them of our support and respect for their religion. I am sure that they, too, do not want to see our way of life destroyed or put at risk by fanatics.

In conclusion, I wish to assure the house and the people of South Australia that the government is committed to a strong and balanced response to the threat of a terrorist incident, if that should ever occur, God forbid, in this state.

PAPERS TABLED

The following papers were laid on the table:

By the Premier (Hon. M.D. Rann)—

Regulations under the following Act—
Public Sector Management—Exemptions

By the Treasurer (Hon. K.O. Foley)—

Regulations under the following Acts—
Parliamentary Superannuation—Revocation
Public Corporations—South Australian Health Commission
Superannuation—State Transport Authority Employees
Taxation Administration—Permitted Disclosure

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

Regulations under the following Act—
Police—Ranks

By the Minister for Transport (Hon. P.F. Conlon)—

Regulations under the following Acts—
Harbors and Navigation—Caulerpa Taxifolia
Passenger Transport—Taxi Fares
Road Traffic—
Mass and Loading Requirements
Modification of Motor Vehicles
Oversize Vehicle Exemptions
Rear Marking Plates
Testing of Photographic Detection Devices
Traffic Speed Analysers

By the Minister for Energy (Hon. P.F. Conlon)—

Regulations under the following Acts—
Electricity—Certificates of Compliance
Gas—General Gas Fitting Work

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

Summary Offences Act 1953—
Dangerous Area Declarations, Return pursuant to Section 83B—
1 October 2004 to 31 December 2004
1 January 2005 to 31 March 2005

Return of Authorisations Issued to Enter Premises, Under Section 83C(1)—
1 July 2004—30 June 2005
1 July 2004—30 June 2005
Road Block Establishment Authorisations, Returns pursuant to Section 74B
1 October 2004 to 31 December 2004
1 January 2005 to 31 March 2005
Regulations under the following Act—
Subordinate Legislation—Expiry of Subordinate Legislation
Rules of Court—
District Court—Address for Service
Supreme Court—Legal Costs

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

Children, Youth and Women's Health Service Incorporated—Report 2003-04
Julia Farr Services—Report 2004
Modbury Hospital—Report 2003-04
Noarlunga Health Services—
Financial & Business Statements 2003-04
Report 2003-04
North Western Adelaide Health Service—Report 2003-04
Southern Adelaide Health Service—Report 2003-04
South Australian Council on Reproductive Technology—Report 2004
Regulations under the following Acts—
Medical Practitioners—Registration Fees
Reproductive Technology (Clinical Practices)—Review Panel

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

South Australian Soil Conservation Council and Boards Combined Annual Report 2003-04 (revised edition)
Regulations under the following Acts—
Aboriginal Lands Trust—Controlled Substances on Yalata Reserve
Environment Protection—Exemptions
Natural Resources Management—
Eastern Mount Lofty Ranges Surface Water
Eastern Mount Lofty Ranges Wells

By the Minister for Employment, Training and Further Education (Hon. S.W. Key)—

Regulations under the following Act—
Technical and Further Education—College Councils

By the Minister for Administrative Services (Hon. M.J. Wright)—

Regulations under the following Acts—
Rates and Land Tax Remission—Criteria for Remission Entitlement
Valuation of Land—Valuations

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

Regulations under the following Acts—
Shop Trading Hours—Expiry
Workers Rehabilitation and Compensation—Agencies and Instrumentalities
Rules—
Fair Work—Industrial Proceedings

By the Minister for Education and Children's Services (Hon. J.D. Lomax-Smith)—

Adelaide Cemeteries Authority Charter
Development Act—
Development Plan Amendment Reports—
Alexandrina Council—Strathalbyn Township Local Heritage
City of Whyalla—Whitehead Street, Whyalla
Light Regional Council—Industry (Gawler Belt) Zone—Land Division
Wakefield Regional Council—Primary Industry Zone
Trinity Gardens Primary School, Application to Construct an Activity Hall—Section 49(15)(a)
Willunga Primary School, Proposed Redevelopment—Section 49(15)(a)

By the Minister for Families and Communities (Hon. J. W. Weatherill)—

Regulations under the following Act—
Adoption—Criteria

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

Regulations under the following Act—
South Australian Housing Trust—Disclosure of Interest

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

Regulations under the following Acts—
Fisheries—
Charter Boat Fishery
Commercial Netting Closures
Management Committees
Food—Food Standards Code
Primary Produce (Food Safety Schemes)—Dairy Industry

By the Minister for State/Local Government Relations (Hon. R.J. McEwen)—

Rules—
Local Government Act 1999—Rules—
Noncommutable Allocated Pensions
Local Government—By-laws—
City of Port Augusta
No. 1—Permits and Penalties
No. 3—Local Government Land
No. 4—Roads
No. 5—Dogs
No. 6—Waste Management
No. 7—Australian Arid Lands Botanic Garden
Local Government—By-laws—
Wattle Range Council
No. 1—Permits and Penalties
No. 2—Moveable Signs
No. 3—Roads
No. 4—Local Government Land
No. 5—Dogs
No. 6—Nuisances caused by Building Sites

By the Minister for Forests (Hon. R.J. McEwen)—

Regulations under the following Act—
Forestry—Recreational Access

By the Minister for Consumer Affairs (Hon. K.A. Maywald)—

Regulations under the following Acts—
Liquor Licensing—Dry Zone—
Coober Pedy
Mt Gambier
Onkaparinga
Pt Augusta
Recreational Services (Limitation of Liability)—Registration of Code

GTR AUTO PTY LTD

The Hon. K.A. MAYWALD (Minister for Small Business): I seek leave to make a ministerial statement.

Leave granted.

The Hon. K.A. MAYWALD: I wish to draw to the house's attention a disturbing consumer protection matter within the second-hand vehicle industry. The Commissioner for Consumer Affairs has advised me of financial losses consumers have suffered as a result of consigning their vehicles through a particular dealership which has not passed on the proceeds of the sale. The Office of Consumer and Business Affairs has received six complaints from consumers owed money by GTR Auto Pty Ltd dealership for vehicles they had consigned to the company to sell. Cheques from

GTR have been dishonoured, and consumers have been advised by staff of GTR Auto Pty Ltd that the proceeds from the sale of their vehicle are no longer available. In total, the amount of money that has not been passed on is $174 200 and involves 15 vehicles and 15 consumers.

GTR Auto Pty Ltd was a licensed car dealership, but the Commissioner for Consumer Affairs last week secured the surrender of its licence. Mr Bob Moran is the sole director of the company. At the same premises, Mr Moran also operated a company described as a 'buyer's agent' for consumers who wanted to purchase a vehicle. This company is known as Austwide Vehicle Negotiators Pty Ltd. When the Commissioner's staff visited the premises on 30 and 31 August 2005, Mr Moran advised that Austwide and GTR were both in financial difficulty and had ceased trading. Staff from the Office of Consumer and Business Affairs immediately took possession of consumers' contracts. Since then, OCBA has been contacting those consumers whose cars appear to be on the premises to assist with their inquiries, clarify ownership of the vehicles and facilitate their recovery where appropriate.

The Commissioner is currently taking legal advice on the options available to consumers and OCBA in order for OCBA to assist consumers in recovering money owed to them. However, from recent advertisements in *The Advertiser*, it appears that a company trading under the name of National Vehicles Brokers is offering the service of buying vehicles on behalf of consumers on a similar basis to that which Austwide Vehicle Negotiators offered until very recently. National Vehicles Brokers is the trading name of a company called Austwide Auto Negotiators Pty Ltd, of which Mr Moran is the sole director. OCBA has no information as to the financial security of Austwide Auto Negotiators.

The Commissioner warns that consumers who have left a vehicle in the possession of Austwide Vehicle Negotiators Pty Ltd or GTR Auto Pty Ltd, who have made payments of fees or deposits to Austwide Vehicle Negotiators Pty Ltd or GTR Auto Pty Ltd to buy a vehicle, or who have warranty entitlements against GTR Auto Pty Ltd, may be at risk of not obtaining the goods or services for which they have paid. It is of paramount importance that consumers are protected when purchasing second-hand vehicles, and I strongly encourage consumers who have dealt with any of these companies to contact the Office of Consumer and Business Affairs on 8204 9777 (or 131 882 for country callers) for further advice on their particular circumstances. I make this statement pursuant to section 91A of the Fair Trading Act 1987.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE: MARINE PROTECTED AREAS

Ms BREUER (Giles): I bring up the 54th report of the committee entitled Marine Protected Areas.

Report received and ordered to be published.

QUESTION TIME

HEALTH SERVICE, GAWLER

The Hon. R.G. KERIN (Leader of the Opposition): Does the Minister for Health stand by the statement she made to the house yesterday when she denied telling the women of Gawler that there would be a camera link-up with the Women's and Children's Hospital to guide trainee doctors if it was not possible to get a senior doctor to Gawler in time for the birth of their children? In answer to the question, the minister said in the first instance:

> No, sir, I did not say that. I certainly did not say anything like what the Leader of the Opposition has suggested.

Soon after, she added:

> I said no such thing to those women.

The Hon. L. STEVENS (Minister for Health): Yes, I do stand by those comments.

REACH FOUNDATION

Ms THOMPSON (Reynell): My question is to the Minister for Education and Children's Services.

The SPEAKER: Order! It is impossible to hear the member for Reynell.

Ms THOMPSON: How is the state government helping our teachers to help more students become active leaders in school and in the wider community?

The Hon. J.D. LOMAX-SMITH (Minister for Education and Children's Services): I know that the member for Reynell is keenly interested in opportunities, options and pathways for young people reaching the senior secondary years of their education. I am pleased to inform the house that today we launched a new program that reflects the state government's commitment to supporting young people in those transitions. In particular, we announced funding to the Reach Foundation, which will be running teacher training workshops today and tomorrow and a student workshop in February, designed to help those young people develop leadership and self esteem.

The Reach Foundation has worked in Victoria for 11 years and approached the government earlier this year to ask if we would support this program, which will upskill teachers and help young people. Initially, these two full-day workshops are held to train teachers of year 9 and year 10 students who, as members will know, are those children who are just at risk, because this is the time before they make decisions about their senior secondary education. It is also a period in their life when they have personal issues, such as puberty; they are often employed; they often have challenges at home; and they can sometimes be difficult to form relationships with.

Everyone knows that the relationships teachers form with children are significant and can affect their lives. We particularly want teachers to be skilled and to help young people develop leadership skills and motivation to achieve their best, and Reach is designed to encourage young people, to inspire them and to help them behave in a positive manner. The Reach Foundation works very closely with the Broadbridge Foundation which, as members will know, honours the life of Troy Broadbridge, a Melbourne football player who died in the Boxing Day tsunami. The foundation was set up by Troy's wife Trisha, who was at the function this morning and who helps in the workshops and training sessions, talking about reaching goals and achieving one's best.

One of the main aims of the Broadbridge Foundation was to bring the Reach program to South Australia, because Trisha believed it would be important to bring some of the benefits of the foundation to this state. The program is supported and led by the Reach founder, who I am sure members will know, AFL Brownlow medallist and legend Jim Stynes, and the award-winning education expert Dr Jon Carnegie.

I am delighted to say that this program fits in very well with the Rann government's strategy of supporting school retention and engagement and complements the $28.4 million that we have invested in the senior secondary years in a range of programs to support young people achieve their potential, gain self esteem and support good mental health and achievements. We want every South Australian child to achieve, and this program is being run now in both public and private schools across the state, with the first hundred teachers being trained in the next two days.

HEALTH SERVICE, GAWLER

The Hon. R.G. KERIN (Leader of the Opposition): Will the Minister for Health explain why her denial yesterday and again today in the parliament is completely at odds with statutory declarations received by the opposition today from two women who were at the meeting held in Gawler on 28 August 2005? One statutory declaration received by the opposition today declared that the minister told expectant women at the meeting the following:

> There would be a registrar/junior doctor at Gawler and a senior obstetrician in the Women's and Children's Hospital who would guide and help the registrar with any birthing concerns and could visually see the room which the mother was in on the video link up. This monitoring would occur when there was no senior doctor at Gawler. The senior doctor in Adelaide could see if he/she need to be involved and go to Gawler.

A second statutory declaration declares:

> Lea Stevens said that there would be a video link up to senior obstetrician at the Women's and Children's Hospital to guide the junior doctor at the Gawler Health Service through the procedure, and said this would be in place in January 2006.

The Hon. L. STEVENS (Minister for Health): As I have said many times before, the government is on about improving the services of the Gawler Health Service. We are about putting in safe, secure and sustainable services at the Gawler Hospital for the women of Gawler. We have done many good things in health, and this is going to be another one. I have no idea why the statutory declarations as read out by the Leader of the Opposition have been put forward. The misconstruction of information that has gone on in relation to the is matter is amazing to me.

As I have said before, the Women's and Children's Hospital provides access to up-to-date technology. It includes—and I said this yesterday at the meeting—electronic and technological linkages between the Women's and Children's Hospital and Gawler to enable conferencing as well as foetal heart monitoring. That is what I was talking about; that is what I said. Access to modern technology is a bonus. Technology is there to enhance service delivery; it does not take the place of doctors.

Members interjecting:

The SPEAKER: The house will come to order!

The Hon. M.J. Atkinson: Pinocchio.

The SPEAKER: The Attorney is out of order.

The Hon. Dean Brown interjecting:

The SPEAKER: The member for Finniss is out of order. The house will come to order. The minister.

The Hon. L. STEVENS: I went to talk with those women in good faith about the services.

Members interjecting:

The SPEAKER: I cannot see the point of the minister answering the question. The member for Torrens.

CARERS

Mrs GERAGHTY (Torrens): My question is to the Minister for Families and Communities. What is the state government doing to recognise the major contribution that carers make to our community?

The Hon. J.W. WEATHERILL (Minister for Families and Communities): I pay credit to the member for Torrens. She is a fantastic campaigner on behalf of disabled people in our community. She has three very important institutions in her electorate: the Independent Living Centre, the Multiple Sclerosis Foundation, the Strathmont Centre, I think, and probably a few others as well. She has always been a very much forefront of the disability campaign. I was very pleased to have the opportunity to address a rally outside Parliament House about 'walk a mile in my shoes'. It was a protest to raise awareness about the question of being a carer for people with disabilities.

This government is doing a tremendous amount to make the lives of those who care just a little easier. We have been putting in additional funding for respite houses and respite care but, crucially, today I will be pleased to give notice of an intention to introduce to the parliament a new bill: a carers recognition bill. The carers recognition bill has been called for for a long time by the Carers Association and the people it represents. Carers in this community are, sadly, invisible. They are invisible because so often their emotional, financial and physical resources are run down in their caring role. They need some assistance to recognise their role so that when they do confront bureaucracies, service providers and, indeed, professionals who do not understand the important role they play, they can say, 'We are recognised.'

It is the sad truth that, if you ask a carer about their identity, very often they will tell you about what they did before they began caring, because at the moment in their current caring role they are simply not recognised by this community. The present level of disability services that are provided in this state do not reflect well on either side of this house. I think that anybody at the rally would have heard that message loud and clear from the disability campaigners. We have put our money where our mouth is. We have increased disability services funding by 31 per cent since coming into government—a $92 million commitment in the last budget. We are putting our money where our mouth is. There is much more that needs to be done, but this government will do it.

HEALTH SERVICE, GAWLER

The Hon. R.G. KERIN (Leader of the Opposition): My question is again to the Minister for Health. Given that professionals involved in the Gawler Hospital issue have criticised the minister and her department for providing misleading information about the issue, will the minister take full responsibility for the latest misinformation being used in an attempt to recruit specialists for Gawler? The government is currently using the Royal Australian and New Zealand College of Obstetricians and Gynaecologists web site to obtain expressions of interest in specialist positions at the Gawler Hospital. The advertisement states that the Gawler Hospital is approximately 20 kilometres from central Adelaide. It is 42 kilometres from the steps of Parliament House to the main street of Gawler, and the hospital is north of that. It was explained at the public meeting on Sunday that specialists must live within 30 minutes of the hospital, making this mistake extremely significant.

The Hon. L. STEVENS (Minister for Health): I find this amazing. The Women's and Children's Hospital, our pre-eminent birthing hospital, is doing a worldwide search for obstetricians. It has had interest and, in spite of the efforts of the opposition to make this fail, the Women's and Children's Hospital continues its search. We have had interest and will endeavour to put birthing services at Gawler Hospital, and we will also continue to do the good things that we have already been doing in this state—over 1 000 new nurses and over 300 more doctors in our hospitals as well as 118 more beds, and going strong.

Mr BRINDAL: I rise on a point of order. The question touched on the provision of accurate information provided by the government. I did not hear the minister answer that question and I therefore direct your attention, sir, to the necessity for relevance in ministerial answers.

The SPEAKER: Answers should be relevant. Members should also listen when an answer is given.

Mr O'BRIEN (Napier): My question is to the Minister for Health. Can the minister advise the house of improvements to services delivered to the Gawler Health Service by the Rann Labor government?

The Hon. L. STEVENS: I thank the honourable member for his question. In the light of the misinformation that has been flying around this house from members opposite, I would be very pleased to explain just how many good things are being done at Gawler.

This year the government increased Gawler hospital's budget by $1.32 million to a record $11.95 million—better than it has ever had. An amount of $100 000 has been set aside for the construction of a helipad to assist in vital and urgent medi-evacuations, and over $100 000 has been provided for new medical equipment, as well as $54 000 for refurbishment and security upgrades at the hospital. An additional $92 000 has also been provided to refurbish the accident and emergency department to make it more appropriate for caring for clients with mental health issues.

In terms of additional services, there is a further $100 000 to employ two extra mental health staff to join the community team providing long-term home care and support, and there is also an increase to a full-time position of an Aboriginal family health worker to be the first point of contact for Aboriginal families to help them access needed health services.

We have developed an early childhood intervention team, with $200 000 to be used to assemble a team with skills in speech therapy, dietetics and occupational therapy to help parents in those vital early years. We are rolling out further home visiting services through the Children, Youth and Women's Health Service—the same people—to cover the Gawler area as part of the government's $6 million a year Every Chance for Every Child initiative.

Mental health initiatives announced in the last budget amounted to an extra $45 million over the next four years, and they will also benefit Gawler and the region. The Wakefield region—

Members interjecting:

The Hon. L. STEVENS: You do not want to hear this because it is good news. Out of this $45 million, sir, $500 000 will be allocated to the Wakefield region (of which Gawler is a part) for packages of community care and support for consumers and carers. We have also provided Gawler with extra resources to undertake further elective surgery procedures. In 2003-04, for example, and as part of an additional injection of $7 million for elective surgery, Gawler received $374 000 to perform an additional 158 procedures.

This is not a community that is being abandoned; this is not a health service that is being run down. We are getting on with the job of strengthening local services and doing the right thing by the people of Gawler—and that is what we will continue to do by providing, through the Women's and Children's Hospital, local birthing services.

Members interjecting:

The SPEAKER: Some members will have the chance to measure the distance between Adelaide and Gawler on foot if they are not careful.

The Hon. M.R. BUCKBY (Light): Mr Speaker, I well know the distance between Adelaide and Gawler, and it is not 20 kilometres. My question is to the Minister for Health.

Members interjecting:

The SPEAKER: Order! The house will come to order.

Members interjecting:

The SPEAKER: We will continue when the house comes to order. Perhaps we could have a parliamentary fun run just to cover the distance.

The Hon. M.R. BUCKBY: Does the minister believe that misleading information, such as that contained in the Gawler hospital recruiting program, could be a factor in the failure of recruited medical professionals to remain in South Australia? Three doctors and a nurse recruited from overseas to South Australia have fled their positions after less than a week on the job.

The Hon. L. STEVENS: I thank the member, who does not even live in his electorate, for the question.

Members interjecting:

Mr BRINDAL: I have a point of order, sir.

Members interjecting:

The SPEAKER: The house will come to order first; there is no point listening to anyone until we can hear what they want to say.

Mr BRINDAL: My point of order is that reflections on any of the members have to be made by substantive motion. That was clearly a shabby attempt at a reflection, given where your Premier lives.

Members interjecting:

The SPEAKER: Order! Some members on both sides have been engaging in disorderly and provocative behaviour.

Mr Brindal interjecting:

The SPEAKER: If the member for Unley wants to talk over the chair he will be dealt with. Members on both sides should not engage in inappropriate provocative commentary. The minister was about to answer.

The Hon. L. STEVENS: Sir, whatever the error on the web site, I am sure that the Women's and Children's Hospital will correct it if that is the case.

The Hon. Dean Brown: It was the doctors who told us.

The Hon. L. STEVENS: Well, I would like to point out to the house that South Australia has done very well in recent years in the recruitment of doctors. We have over 300 more doctors currently working in our public health units. We are doing really well in that area and we will continue to do so. In relation to Gawler, we are working hard to put those services back in place through the Women's and Children's Hospital, our pre-eminent birthing hospital.

WASTE MANAGEMENT

Ms BREUER (Giles): My question is to the Minister for Environment and Conservation. What is the government doing to coordinate and manage South Australia's waste?

Members interjecting:

The Hon. J.D. HILL (Minister for Environment and Conservation): We are doing our best to coordinate them, but to manage them, I think, is impossible. I thank the member for Giles for her question. Until now, South Australia has not had a coordinated system of waste management. To address this, the government created Zero Waste a couple of years ago, and the next step has been the establishment of the first waste strategy for the entire state. I am delighted to release this strategy today and table the document that relates to it. This strategy has been developed in consultation with industry, community organisations and local government. Forty eight submissions were received over the 12-week consultation process involving the draft strategy. Our goal through this strategy is to avoid building more landfill, and to recycle and reuse as much of our waste as we can. We want South Australia to be known as the resourceful state.

Under this plan, by 2010, 75 per cent of all waste put out by householders for kerbside collection will be recycled. There will be a 50 per cent increase in the recovery, recycling and use of kerbside collected waste by 2008. Recycling of construction and demolition waste will increase by 50 per cent. Recycling of commercial and industrial waste will go up by 30 per cent, and regional local government waste management groups will be established. This strategy will change the way we live. South Australia is currently at the forefront of recycling in Australia. Landfills throughout South Australia currently receive 1.28 million tonnes of solid waste each year, while approximately 2.1 million tonnes of waste is recycled—an outstanding outcome and, I think, the best in Australia.

We have embraced the best practice three bin collection system for kerbside waste disposal. In fact, 200 000 Adelaide residents across eight metropolitan councils currently use the three bin system. That is growing, and I hope eventually all Adelaide residents will be part of that system. South Australians are leading the way in the nation in support of a ban on single use plastic bags. An interesting statistic is that metropolitan waste to landfill has dropped by 9 per cent over the past year, and rural landfill waste has dropped by 5.5 per cent over the same period.

HOSPITALS, QUEEN ELIZABETH

The Hon. DEAN BROWN (Deputy Leader of the Opposition): Will the Minister for Health advise the house when she expects birthing services to be resumed at the Queen Elizabeth Hospital? On 19 May 2004, when birthing services at the Queen Elizabeth Hospital were terminated, the minister said, 'We are not closing it: it is suspended for the time being.' Five days earlier, the Deputy Premier said the closure was only temporary and that a worldwide search was underway to find replacement obstetricians. That was 16 months ago, and the women of the western suburbs are still without their birthing services, which they have enjoyed for generations.

Members interjecting:

The Hon. L. STEVENS (Minister for Health): Birthing services at the Queen Elizabeth Hospital will recommence as soon as we get those doctors. Meanwhile, the Queen Elizabeth Hospital goes from strength to strength. It is no longer going to be downgraded into a community hospital, which was the plan of the deputy leader. It will have research facilities, which was not the plan of the deputy leader. The Queen Elizabeth Hospital is going strong, and it will continue to go strong in the western suburbs on the implementation of this government, which believes in the Queen Elizabeth Hospital and its future.

DEEP SEA GRAIN PORT

Mr O'BRIEN (Napier): Can the Minister for Infrastructure advise on the progress of the deep sea grain port at Outer Harbor?

Members interjecting:

The Hon. P.F. CONLON (Minister for Infrastructure): It is good that Mitch is laughing, because there is plenty to laugh about here. It is funny that this question without notice should come at this time, because the opposition has been going on a bit about inaccuracies on web sites—about someone placing an ad and getting the distance to Gawler wrong. It is very important that we clear up the progress of the deep sea port at Outer Harbor too.

The Hon. R.G. Kerin interjecting:

The Hon. P.F. CONLON: It is good that the Leader of the Opposition—for the time being—wants to interject here, because I had an interesting visit to another web site a little time ago. The Liberal opposition, in an attempt to be relevant, has been putting out some information. This one is about the grain industry, and the web site is called 'Making SA Better'. Let us make it clear who owns this web site. It has a big photo of Rob Kerin up at the top, and what does it say—if we want to talk about people's accurate web sites? It states:

> . . . the proposed deep sea port at Outer Harbor is critical. However, construction on this project is yet to commence.

Mrs REDMOND: I rise on a point of order, sir. My point of order is relevance.

The SPEAKER: I have listened carefully. The minister has a deep-seated interest in the grains industry and I want to hear what he has to say.

The Hon. P.F. CONLON: I can assist the honourable member by saying that the relevance is that it refers to progress on the deep sea grain port—the very subject matter of the discussion. This thing released a couple of weeks ago, was it Rob—

The Hon. R.G. Kerin interjecting:

The Hon. P.F. CONLON: About a month ago, he says. It stated that the deep sea grain terminal, in particular construction on this project, is yet to commence. It pains me that I am not allowed to display things or table documents. But, when we read this, we just happened to have a photographer at Outer Harbor to take a photograph of the construction that has not commenced. For the benefit of the Leader of the Opposition, who was obsessed with getting web sites right, the deepening started something like a year ago and construction started shortly after that. There is a deepened port; all the terminals are sunk; the rock wall is in. It has been there for a year. Sir, I understand that one can miss a few little things as one walks along the beach sometimes, but it is rather big. It is about 400 metres long. It has great big poles there. If members opposite want to come into this house and talk about mistakes and putting themselves forward as an alternative government, a deep sea port is a difficult thing to miss; and before we go looking at the mote in someone else's eye, we might consider the beam in our own.

The Hon. M.J. Atkinson interjecting:

The SPEAKER: The minister is out of order.

HEALTH SERVICE, GAWLER

The Hon. M.R. BUCKBY (Light): Will the Minister for Health advise whether the proposed model for obstetrics for the Gawler Health Service will be at greater or lesser cost than that proposed by Dr Cave and Dr Stewart-Rattray? On 31 August 2005, Dr Ross Sweet and Dr Jim Birch (CEO of the health department) stated on 5AA radio that the proposed model would cost more. Yesterday in parliament the minister said that Dr Cave and Dr Stewart-Rattray would be replaced by six doctors—four registrars and two specialists.

The Hon. L. STEVENS (Minister for Health): I would like to talk about the new model because this is a great new model for birthing services in Gawler.

The Hon. Dean Brown interjecting:

The SPEAKER: The member for Finniss is not on safe ground here. If he interjects he will be in trouble.

The Hon. L. STEVENS: My advice from the Chief Executive is that the model will be marginally more expensive. However, the services we will be putting into Gawler are enhanced in terms of the range of options that will be available to women. There will be the opportunity for women to choose midwifery care, GP shared care or care from obstetricians. The other very important thing is that this is a long-term sustainable model for the future—and that is why we went in this direction; that is, to bring in the Women's and Children's Hospital. We believe it is excellent value for money into the future.

DOCTORS, RECRUITMENT AND RETENTION

Ms RANKINE (Wright): My question is to the Minister for Health. What progress has been made to improve the recruitment and retention of doctors in the South Australian work force?

The Hon. L. STEVENS (Minister for Health): This is a good news story for South Australia. Addressing the recruitment and retention of the medical work force, particularly our medical and nursing staff, is a major issue. It is an issue not just for South Australia but also for the whole nation. South Australia has made good progress on this issue, and these results are reflected in a recent national report on the medical work force. This report shows that the Rann government's efforts to recruit and retain doctors are having a positive impact.

Mr Brokenshire: They are going to Queensland.

The Hon. L. STEVENS: Perhaps the member for Mawson might consider going to Queensland! The Medical Labour Force 2003 Report issued by the Australian Institute of Health and Welfare in August this year showed that South Australia had the highest number of full-time equivalent doctors per head of population of all states in Australia, excluding only the Northern Territory and the ACT.

An honourable member interjecting:

The Hon. L. STEVENS: It is 2003.

An honourable member interjecting:

The Hon. L. STEVENS: The most recent national report. These figures show that in 2003 South Australia employed 313 full-time equivalent doctors per 100 000 people. That is an increase from 301 in the year 2000 when someone else was minister for health. Data from our own health units and hospitals is also showing significant improvements in work force numbers since the Rann government took office.

I am pleased to inform the house that these improvements are occurring in both city and country areas. Our own Department of Health data covering the most recent three years is also showing a continued steady increase in doctor numbers. From the end of June 2002 to the end of March 2005, an extra 340 doctors have been employed in South Australian public hospitals and health units—an increase of 15.7 per cent.

Members interjecting:

The Hon. L. STEVENS: I know members opposite do not like hearing the good news, but, unfortunately, for them, the government is making progress. It must be very disappointing for the opposition, I understand that. At the same time, from the end of June 2002 to the end of March this year, the number of nurses employed in public hospitals and health units in South Australia has increased. Over 1 000 more nurses are now employed in our public hospitals and health units—a 9.8 per cent increase. These are very good results compared with what we were left with when we came to government.

However, we will not rest on our laurels. We still have a lot of work to do, and we are continuing to put strategies in place. The things that we are doing to improve recruitment and retention include $2.7 million per year for recruitment and retention of nurses. This is in addition to the most recent enterprise bargaining agreement with nurses. The new enterprise bargaining agreement just concluded by my colleague the Minister for Industrial Relations brought forth an agreement worth $134 million over four years, and that equates to an increase of between $134 and $385 per week for doctors, right through from interns to consultants. That is not all.

Earlier this year I announced a $27.2 million package over four years with a range of measures to attract and retain doctors, primarily GPs (private sector doctors), in rural areas of South Australia. Also, a $3 million medical indemnity package was implemented in 2004-05, with $1.5 million of recurrent annual funding to keep doctors in country South Australia. There has also been further work on a medical recruitment and retention strategy in partnership with the South Australian Salaried Medical Officers Association and the AMA.

Finally, we also support the Flinders University Rural Clinical School to the tune of $250 000 per annum. So, we have done a lot of work in recruitment and retention of both doctors and nurses, and we are getting the results. There are over 1 000 more nurses in our public hospitals and health units than when we started; and more than 300 extra doctors are employed in our public hospitals and health units. We are doing well. We are doing a lot better than the opposition ever did.

The SPEAKER: The member for Light. I am allowing this as a supplementary question. I had called the member for Wright, I think, before I saw the member for Light. The member for Light.

The Hon. M.R. BUCKBY (Light): Thank you, Mr Speaker. My supplementary question is to the Minister for Health. Given that she has just said that the cost for the new model at the Gawler Health Service will be marginally more than the old model, will the minister undertake to provide the details to the house of the additional cost of the new model?

The Hon. L. STEVENS: Certainly, I am happy to do that but, again, I would like to reiterate that my chief executive advises that we have had a marginal cost increase for a far better, sustainable result. We reckon it is good value for money.

ASHBOURNE, CLARKE AND ATKINSON INQUIRY

Ms CHAPMAN (Bragg): Will the Attorney-General confirm that he claimed legal professional privilege for documents relating to the settlement of his defamation action with Ralph Clarke; and is it the case that documents in the possession of the Attorney-General were not given to police in their investigations concerning Randall Ashbourne? The Premier said that his ministers would fully cooperate in the police anti-corruption investigation surrounding the Atkinson-Ashbourne corruption scandal.

The Hon. M.J. ATKINSON (Attorney-General): Referring to the select committee deliberations, I notice that the Hon. R.D. Lawson asked the question, 'So to this day it is not in the public domain as to what the terms of the settlement were or what the discussions between Clarke's solicitor and Atkinson's solicitor were?' Superintendent Simons answered, 'That is correct. As I said earlier, we honestly believe that had we had access to those documents then perhaps this may have been a lot clearer than it is today.' In fact, the correspondence between my solicitor and Mr Clarke's solicitor is in the public domain. It was provided to the South Australian Police on I think the second day of the inquiry.

Ms CHAPMAN: I have a supplementary question, sir.

The SPEAKER: I will come back to the member for Bragg. The member for West Torrens.

GRAFFITI, INTERNET

Mr KOUTSANTONIS (West Torrens): My question is to the Attorney-General. Is he aware of the problem of internet sites promoting graffiti and, if so, what is being done about it?

The Hon. M.J. ATKINSON (Attorney-General): From time to time internet sites are discovered that showcase or promote graffiti. The sites typically include photographs of the handiwork of a particular graffiti gang or photographs of graffiti posted in a particular city or region. They may also include information about a gang's activities or encourage viewers to mark graffiti. Three or four such sites have been brought to my attention in recent years—the most recent was discovered by you, sir, and it appeared to belong to a gang operating in the north-eastern suburbs of Adelaide.

As members may know, anyone can complain to the Australian Communications and Media Authority (formerly the Australian Broadcasting Authority) about an offensive internet site. That includes a site that promotes or instructs in crime. The authority will investigate the complaint and can refer the contents to the National Classification Board for classification. In general, material that contains detailed instruction in or promotion of crime will be refused classification (more commonly referred to as the RC classification). Members might recall that when the former Attorney-General, the Hon. K.T. Griffin, introduced—

The Hon. I.F. Evans interjecting:

The Hon. M.J. ATKINSON: No, I do not say that any more. I promised Angus I would not. When he introduced a bill to apply the classification categories to internet content, the Australian Democrats voted against his bill on the ground that the internet should not be regulated in any way.

An honourable member: How do you know?

The Hon. M.J. ATKINSON: I voted in favour of the Hon. K.T. Griffin's bill. If the site proves to be RC and it is hosted in Australia, the authority can notify the internet service provider or content host and require the material's removal. If the site is classifiable RC but is not hosted in Australia, the authority can notify the providers of filter software about the site so that they can ensure that their filters will block access to it. That enables internet users who do not wish to encounter the material to avoid it by applying a filter.The authority can also notify the police about the material. In each case where I have been notified of a graffiti site, I have reported the site to the authority.

Concerned viewers can also complain directly to the internet service provider or content host, asking it to stop hosting the illegal or offensive content. Many providers or hosts have policies against hosting illegal or offensive material and accept complaints from the public if such material is being made available through their services. When I have been able to identify them, I have also written to the hosts to ask that they cease hosting graffiti material. All members would know that it is an offence in South Australia to upload to the internet material that is or would be classified X, 18 plus, or RC. The maximum penalty is $10 000. I therefore also wrote to the Police Commissioner reporting the site to him, and I asked him to investigate whether any offences had been committed under South Australian law.

Finally, I am pleased to say that the site recently drawn to my attention by the Speaker appears now to have been removed. I believe this may have come about through my complaint last week direct to the content host, freewebs.com, which has a policy of not hosting illegal material. However, the member for Newland has told the media that it was owing to police intervention. I have not yet been able to establish which is right but, either way, the result is pleasing. However, my earlier efforts with the other graffiti sites notified to me were not successful in having the content removed from the internet. For this reason, I have written to all censorship ministers asking them to put this matter on the agenda for discussion at our next meeting in November.

The SPEAKER: The member for Bragg has a supplementary question.

Ms CHAPMAN (Bragg): Notwithstanding the claim that documents were provided to the police—

The Hon. K.O. Foley: Who's your question to, Vickie?

Ms CHAPMAN: A supplementary.

The Hon. K.O. Foley: To whom?

The Hon. M.J. Atkinson: You can't have a supplementary. I just answered something else.

Ms CHAPMAN: Notwithstanding, Mr Attorney, that the—

Mr Koutsantonis: Through the Speaker, of course.

The Hon. K.O. Foley: Who's your question to?

Ms CHAPMAN: Mr Speaker, thank you for the invitation to ask a supplementary question. I will proceed. Notwithstanding the claim that documents and correspondence were produced to the police, did the Attorney claim professional privilege prior to that to not produce the documents and, if so, when and why?

The Hon. M.J. ATKINSON: Suddenly, the opposition has a completely different attitude to privilege than it had

when we debated the matter of parliamentary privilege just a few short weeks ago, when I introduced a bill to abrogate parliamentary privilege to require the member for Hammond to—

Ms Chapman: That was an embarrassment.

The Hon. M.J. ATKINSON: You say that it was an embarrassment. I stand by the bill, and it is still on the *Notice Paper*. It was very interesting in the select committee—

Ms Chapman interjecting:

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

The Hon. M.J. ATKINSON: —when the Liberal members asked the former Crown Solicitor, Mike Walter, if any previous Attorney-General had claimed legal professional privilege and the answer was, 'Yes, the Hon. Trevor Griffin claimed it in respect of a select committee inquiry into the EDS contract.' Suddenly, legal professional privilege—a different attitude now that government has changed. The police thanked me for my cooperation in that investigation. The relevant thing that the police needed was the correspondence between my solicitor and Mr Clarke's solicitor, and they received that.

The SPEAKER: The member for Bragg has asked a supplementary and then continues on.

DIRECTOR OF PUBLIC PROSECUTIONS

Ms CHAPMAN (Bragg): Thank you. I have another question for the Attorney-General.

The SPEAKER: Order! I have not called the member for Bragg yet. The member for Bragg.

Ms BEDFORD: No, excuse me, sir.

The SPEAKER: No, the member for Bragg had a supplementary question and this is a normal question.

Ms CHAPMAN: Thank you, sir. My question is to the Attorney-General. Has the edict that the Director of Public Prosecutions must put in writing all communications to the government been withdrawn? A transcript of the television news bulletin on 1 July 2005 has the footage of the Premier forbidding 'any contact between the DPP's office and government ministers and ministerial officers unless it is in writing'. Today on ABC radio, the Attorney-General implied that normal relations between him and the DPP had been resumed. Are you back on the telephone?

The Hon. M.J. ATKINSON (Attorney-General): I was pleased to meet the Director of Public Prosecutions recently to discuss the prosecution of the McGee brothers—

The Hon. K.O. Foley: Is he back?

The Hon. M.J. ATKINSON: No; this is before he went on his trip, which was authorised by me. I, the Solicitor-General, and my officers—

The Hon. Dean Brown interjecting:

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

The Hon. M.J. ATKINSON: —had a useful and entirely proper input into the DPP's deliberations on those prosecutions. I was pleased to see him in the large boardroom of my office, and I assume, now that he has returned, that I will be seeing more of him.

EMPLOYMENT, APPRENTICES AND TRAINEES

Ms BEDFORD (Florey): My question is to the Minister for Employment, Training and Further Education. How many apprentices and trainees are currently working in South Australia and how does this rate nation wide?

The Hon. S.W. KEY (Minister for Employment, Training and Further Education): I thank the member for Florey for her question and acknowledge her support and continuing interest in employment and young people. I am pleased to report that, for the second quarter in a row, South Australia has recorded its highest number of apprentices and trainees, according to the new figures received by the National Centre for Vocational Education Research. The NCVER Australian apprentice and trainee statistics show that, for the March quarter, there have been 34 600 apprentices and trainees in South Australia. This is 8.1 per cent higher than at the same time last year and compares with a national fall of 3.3 per cent.

What is particularly pleasing about these figures is that South Australia is now starting to make increased inroads into the skill shortage areas, with a 13 per cent rise in the number of people starting apprenticeships in the traditional trades area. Traditional trades now comprise 37.9 per cent of all traineeships and apprenticeships in the state, compared with 33.8 per cent for the same quarter last year. There has been a strong increase in the number of South Australians starting apprenticeships and traineeships. It is estimated that 7 400 commenced training in the March 2005 quarter. This is the second highest quarterly figure for commencements on record and is 15.6 per cent higher than 12 months earlier. The rise in commencements of 15.6 per cent in South Australia compares with a national rise of 9.7 per cent. It is also important to note that, in the year ending 31 March 2005, school-based commencements alone rose by 10 per cent in South Australia, with school-based contracts accounting for 7 per cent of all contracts in training, and this again exceeds the national proportion of 4 per cent.

This is good news for South Australia and particularly shows that the state's youth engagement strategy, which aims to ensure that all 15 to 19 year olds are in either learning situations or earning, is starting to work. The figures also reveal that South Australia significantly outpaced the national growth in female apprentices and trainees in training, achieving a growth of 8.7 per cent when compared with the same quarter last year. This sharply contrasts with a national fall of 6.7 per cent. It is also important to note that, of the 34 600 apprentices and trainees, 20 050 are under the age of 24. This shows that traineeships and apprenticeships are also providing young people with on-the-job experience while receiving training in their chosen field. If constituents (usually parents or grandparents) want more information with regard to apprenticeships, I urge members to consider referring them to the state government's apprenticeship hotline on 1800 673 097. This service has proved to be very useful in our quest to get more people to consider apprenticeships as a real option.

KANGAROO ISLAND TOURISM

Mrs HALL (Morialta): My question is to the Minister for Tourism. What action will the minister take to remedy the adverse effects Kangaroo Island operators believe will arise from the government's decision to impose a hike of $400 000 a year in port fees on Kangaroo Island Sealink? I have been contacted by a number of Kangaroo Island tourism industry operators who are fearful that an increase in ticket prices, forced by this 76 per cent jump in port fees, will seriously impact on KI tourism.

The Hon. P.F. CONLON (Minister for Transport): I am more than happy to answer this question.

The Hon. Dean Brown: What would you know about tourism?

The Hon. P.F. CONLON: One day they say, 'You spend too much on travel,' and the next day they say, 'You don't know anything about tourism.' I do know something about the charge, and I was very interested to hear the member for Finniss's contribution on this issue. My understanding of the charge that is referred to is that it was something that was either requested or strongly supported by local government on the island.

The Hon. Dean Brown: It was not.

The Hon. P.F. CONLON: I will check that, because I have to tell you that—

The Hon. Dean Brown: I've checked on that.

The Hon. P.F. CONLON: Dean has checked it, and he will tell us, but I will check, because I don't trust you, Dean. I am writing you a letter just at the moment on another matter about which I really have reason to doubt. Let's explain what this levy does: it is money for council roads on Kangaroo Island. There is nothing in it for the state government, but there is something in it for Kangaroo Island.

An honourable member interjecting:

The Hon. P.F. CONLON: No; I am happy to go back and talk to those people on Kangaroo Island about what they want and do not want. This issue precedes me, but it is my understanding that it is something the people on Kangaroo Island want us to do. I also say this: if the operators of the ferry (who, I have to say, have got some pretty good arrangements and support out of this government) want to engage in public debate about whether or not this makes a margin, we will do that and talk about what returns they are making on that service, because it is a pretty good business.

The Hon. Dean Brown interjecting:

The Hon. P.F. CONLON: No; we will just tell the truth. I know that is something that is a bit alien to some on the other side and is certainly not their preferred approach, but that is what we will do. I say this: if the member for Morialta and the member representing Kangaroo Island are serious about this, I am happy to go back and enter into discussions with the council and the people of Kangaroo Island, because there is nothing in this for us. This is to pay for council roads on Kangaroo Island. If the people of Kangaroo Island do not want it, or if the council does not want it, I am very happy to go back and have another look. I will organise that meeting very soon. I will invite Dean along, and we will meet with the people, the development board and the council. If I have been misled, and the people of Kangaroo Island do not want this, I will be the first to revisit the decision.

Mrs HALL: My question this time is directed to the Minister for Transport.

Members interjecting:

The SPEAKER: The member for Morialta will take her seat. The clock is ticking away, and the house will come to order. The member for Morialta.

Mrs HALL: Thank you, Mr Speaker. I ask the minister: will he inform the house how he reconciles the $400 000 increase in port fees imposed on KI Sealink with the objective of securing the economic viability of Kangaroo Island as contained in the government's infrastructure plan? The infrastructure plan states:

> Ferries carry the majority of freight and passengers to and from Kangaroo Island. The social and economic viability of Kangaroo Island depends on maintaining competitively priced services and sufficient fit-for-purpose harbours to meet islanders' needs.

However, this 76 per cent port fee hike is likely to force KI Sealink to increase its charges for this service.

The Hon. P.F. CONLON: I will start with the last bit first. It will only increase its charges if it is not making a decent return, and I am quite happy to have the debate on the returns it is making. If the honourable member wants to talk about how we intend to do this, first let me say that she very conveniently overlooks the fact that, apart from this $400 000 to pay for council roads, this is the first time that any government has done a great deal—certainly more than the previous (Liberal) government did for the island on electricity—and we put $2 million worth of money—

Members interjecting:

The Hon. P.F. CONLON: I do not know. I have actually spent some time on the island. I enjoyed the company of Ted Chapman, a great local member and a decent bloke, and I do know a bit about the island. I do not get there as often as I would like, but I certainly enjoyed the company and I enjoyed being at his very beautiful property. We put $2 million towards improving electricity reliability there. Of course, the islanders would like us to do a lot more; they all would. As for explaining how it benefits the island to improve the council roads, do members really want me to explain to them how it benefits tourism to improve the roads that they drive on? Let me try to explain it this way. When people go and visit some place, the more pleasant it is for them the more likely they are to go back. If they go and visit Kangaroo Island and the roads are better to drive on, in my view they are more likely to go back.

The Hon. Dean Brown: Thanks to the Liberal government.

The Hon. P.F. CONLON: Thanks to the Liberal Government?

The Hon. Dean Brown: It is the Liberal government that sealed the south coast road and the Liberal government that sealed the—

The SPEAKER: Order! The member for Finniss is out of order.

The Hon. P.F. CONLON: Yes, and it was a Liberal government that built the Southern Expressway and then signed a confession recently, a press release, saying that it had got it wrong and 'will you please duplicate it?' That was a scream: that was fantastic. Those opposite built the Southern Expressway seven years ago and came back and said 'Can you fix up what we did wrong?' We know what the previous government did: higher crime rates, fewer police, higher unemployment. What about this government: record low levels of unemployment, record low levels of crime, record levels of police. I am happy to spend the rest of the day comparing what members opposite have done with what we have done. I repeat this—

The Hon. DEAN BROWN: On a point of order, clearly the minister has strayed a long way, both in terms of subject and factual content of what he is talking about.

The SPEAKER: And also the member for Finniss was repeatedly interjecting. Has the minister finished?

The Hon. P.F. CONLON: I have not finished, sir. Let me explain this once more. We have attempted to find a way to assist the council to pay for roads that it has not been able to afford to pay for. My understanding of it, and this was put in process a little before my time, was that the council wanted this to occur. I am saying to members that, at the instigation

of the member for Finniss, I am very happy to go back and talk to the council and the Regional Development Board and see whether they want this lifted and the roads not paid for. I am happy to do that, because this is not about building our roads. It is about building council roads. If the member for Finniss does not want it for his electorate; if the council does not want it; if the Regional Development Board does not want the roads improved, I am happy to go back and talk to them again.

I promise that I will have my office make arrangements with the council and the Regional Development Board as soon as I can physically get to them, and I will find out and report back to the house whether they do want the levy lifted and they do not want the money for the roads.

Mr BROKENSHIRE: I rise on a very serious point of order and ask that you, sir, investigate and report back to the house on two matters where I believe the democracy of the parliament is being treated with contempt by the government.

The SPEAKER: That is not a point of order.

Mr BROKENSHIRE: The first is that yesterday the government came out and quoted—

The SPEAKER: Order! It is not a point of order. If the member wants to make a point he should use a grievance or, if it is a reflection on him, he should use a personal explanation.

Mr BROKENSHIRE: I was advised by the authorities that it was a point of order, and that is why I raised it as one.

The Hon. P.F. Conlon: What authorities? Dean?

Mr BROKENSHIRE: The advisory authorities in the parliament.

The SPEAKER: I will come back to the member for Mawson.

PARADISE INTERCHANGE

The Hon. J.D. LOMAX-SMITH (Minister for Education and Children's Services): I table a ministerial statement relating to the Paradise interchange made in another place by the Hon. Paul Holloway.

ADELAIDE PARK LANDS

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

Leave granted.

The Hon. J.D. HILL: Since coming to office, the government has been delivering on its 10-point election plan for the Adelaide Park Lands. Land will be returned to the Park Lands. A biodiversity survey has been conducted and the Adelaide Park Lands are being considered for listing as a state heritage area. An Adelaide Park Lands working group was established to publicly investigate and report on options for the management of the Park Lands. Subsequently the government, in consultation with the Adelaide City Council, has been working on overarching legislation to provide protection for the parklands. That resulted in the release of a draft bill earlier this year. Based on public feedback, the bill has now been further developed and will be introduced into parliament tomorrow in the Legislative Council.

The bill will create a new authority that brings the Adelaide City Council, the government and community together to better manage the Park Lands. For the first time, the area that forms the Park Lands will be defined with boundaries as close as possible to Colonel Light's original vision. The development of this bill has been assisted by valuable contributions from the Adelaide City Council, from the Adelaide Park Lands Preservation Association (under the leadership of the Hon. Ian Gilfillan), from the member for Adelaide and from the member for Norwood, and for their involvement and assistance I am very thankful.

GRIEVANCE DEBATE

DISABILITY, WALK A MILE IN MY SHOES

Mrs REDMOND (Heysen): I am sure that a number of the members of this house and the other place are aware that today was a national day of action in relation to the disability sector and that a fairly large group of people from that sector, people with a disability and those who are their carers, as well as people who work in the sector, gathered at the front of parliament. Indeed, it was a large enough gathering that it entirely blocked the footpath for the first part of the meeting until people were squeezed forward a bit to make room for pedestrians to go by. The name that they gave to this particular gathering was 'Walk a mile in my shoes,' and that was an entirely appropriate name to give to this group, which is protesting at the government's lack of action in relation to the disability sector. The participants left a large array of shoes on the steps of parliament as a symbol of the way they feel abandoned. The shoes were to be abandoned, and they invited people to abandon their old shoes as a symbol of the way in which the disability sector in this community feels abandoned by the government.

The thrust of the argument that they are putting is that, for some years, South Australia has been lagging sadly behind in the level of disability funding provided to the disability sector and, in particular, this state ranks lower than any other state in funding per capita for people with a disability. In fact, even the Australian Capital Territory and Tasmania are well above. All these people are seeking to do is get South Australia up to the national average in the money that is spent. The Attorney-General asked how many people were at this rally, and I guess that signifies the Attorney-General's lack of comprehension as to how difficult it is for people with a disability, or for people who are caring for those with the disability, to get to a rally such as this. A lot of them are there having spent many hours having to get themselves organised just to be at a rally. But, the fact is that they are so hard done by that they have decided that they have to come out screaming so that they become an annoyance not just to politicians but also to the public at large. We all need to understand; we all need to walk a mile in their shoes and start to understand just what some of these people live through on a day-to-day basis. And, quite frankly, I do not know how they do keep going.

We know from the government's budget that it has introduced, for instance, a respite scheme. My recollection is that it is funded on a dollar for dollar basis with the federal government, and the respite scheme in fact does nothing more than guarantee four weeks respite per year. The rest of us are entitled to four weeks annual leave—well, politicians perhaps being the exception; we do not actually seem to get any annual leave. The working community gets four weeks annual leave, but these people are now going to be entitled

to the amazing amount of four weeks annual leave once they are over 70 if they are carers. It is just extraordinary that as a society we can accept that people can keep going and keep having to look after these children, who are by then middle-aged, and they are now getting the guarantee of four weeks respite leave pay once they are over 70. They can get two weeks per year over the age of 65, but only if one of the carers is hospitalised. That speaks volumes about what our society has given priority to, and it certainly has not been the disability sector.

We need to start addressing this issue. It is going to be a long-term thing. We are going to have to add increasing amounts of money, increasing services just to get things to a level where we are at the national average. In my view, this state should aim to be at the forefront of the way we treat those less fortunate in the community. I said on the steps of Parliament House, and I have said on many other occasions that, in my view, any society will be judged by how it treats those who are the most vulnerable, and this group is the most vulnerable in our community. They have no real voice most of the time. I congratulate them for organising this rally. It is not the first one that they have held and, hopefully, it will not be the last. They need to keep the pressure on us as politicians, and they need to keep making the public aware because, until these rallies started about 18 months or two years ago, many members of the community simply were not aware. Disability was something that happened in other people's lives, and no-one was confronted by it, but now they are out there and we are having to start looking at the issue and addressing it.

ONKAPARINGA BREAST FEEDING ASSOCIATION

Ms THOMPSON (Reynell): Sir, as you would know, the break from parliamentary sittings is an excellent time for members to really meet with people in their electorate and to be briefed on some of the important activities that are undertaken by the many volunteers in our community. During the most recent group I was able to receive a delegation from the Onkaparinga group of the Australian Breast-feeding Association, which briefed me on its activities within our community and provided me with a very comprehensive folder of some of the activities of the Australian Breast-feeding Association nationally. I think that most of us know about its excellent help-line and the support that the Breast-feeding Association, formerly known as the Nursing Mothers Association, provides to mothers, particularly when they are having some difficulty in undertaking breast-feeding. However, not so much is known about the general work that it does to promote breast-feeding and the extent and depth of this activity. Among the resources that they provided me with was a book entitled, 'Evidence practice gaps report, Volume 2', which is issued by the National Institute of Clinical Studies, Australia 2005.

One of the issues referred to in this volume, which is designed to be support for health practitioners, is the matter of breast-feeding and its promotion and support. It says that more hospitals should consider implementing the baby-friendly hospital initiative and promote practices such as early skin to skin contact and rooming in. The short and long-term health benefit to mother and baby, as well as the economic benefits associated with breast-feeding in Australia, need to be further promoted. The benefits of exclusive breast-feeding during the first six months and its continuance up to and beyond 12 months should be highlighted. Groups identified as high risk need to be specifically targeted, including mothers aged under 25 years, those without tertiary education, and Aboriginal and Torres Strait Islander mothers.

The representatives of ABA who saw me—Zlata Tolic and Fiona Telford-Sharp—provided me with information about what they are doing to support exclusive breast-feeding to six months. They identified two barriers, one being food labelling which indicates that certain baby foods are suitable for babies from four months, and the other being the lack of paid maternity leave. In terms of food labelling, they have been advocating very strongly with Food Standards Australia New Zealand to change labels on infant baby formula from the current 'from four months' to something like 'from six months', as they believe that many mothers, when they see these labels, incorrectly think that they should be providing baby food to their children from four months. This campaign is making some progress and, while the new standard is not quite what ABA wants, a big improvement should be available early next year.

However, less success is being achieved in terms of paid maternity leave. The association made a comprehensive submission to the Sex Discrimination Commissioner in 2002 about the issue of paid maternity leave and its importance in enabling exclusive breast-feeding in the first six months, and they make some important points about the benefits of breast-feeding. For instance, breast-feeding is known to promote cognitive development and a higher IQ, central nervous system development and visual acuity, and speech and jaw development. Breast-feeding also helps to protect mothers against breast cancer and other cancers of the reproductive organs, as well as osteoporosis. The submission points out that the vast majority of female workers are in small to medium-sized workplaces and in industries without access to employer-funded maternity leave. They also point out that the lack of paid maternity leave is often a barrier to continuing breast-feeding.

Time expired.

RANDOM DRUG TESTING

Mr VENNING (Schubert): Today I rise to speak on an issue about which I am extremely passionate, as this house is well aware. We are now in the official countdown to the next state election, which will be held in five months' time on 18 March, and we only have less than six sitting weeks left, which is a disgrace. However, today I wish to highlight the fact that more than two years after I first raised the matter in this house the government still has not introduced its legislation to address the huge problem of drug driving in South Australia. If we had addressed this matter two years ago when I first discussed it with you, sir, and others, we could be leading the nation on this matter today and no doubt we would have saved many lives.

I hate to say it, and it grieves me greatly, but today South Australia is the undisputed drug capital of Australia. The reason for that is to do with state governments, particularly state Labor governments, over many years. We have been soft on drugs, particularly marijuana, over 10 years, and last Sunday night the *60 Minutes* program—hello, hello—revealed that it is now proven that marijuana abuse causes irreparable brain damage. Nothing annoys me more than having to say, 'I told you so.' When we debated the personal cultivation of marijuana here in this house approximately 10 years ago I pushed for zero tolerance and the Labor

government pushed for up to 10 plants—that is, where only an expiable offence occurred. We eventually got it back to one, but I have been quoted in this house ad nauseam over these past 10 years advocating zero tolerance—and I still do. The state Labor government should be condemned for its practices back then and again now for being so tardy in not wanting to apprehend people who are abusing drugs—and, more importantly, those who abuse drugs and drive.

I now wait with bated breath to see the government introduce its drug driving legislation—hopefully this week, as they have stated in the media (although we have not seen it yet). I still wait, but as far as I am concerned the issue has been ignored for far too long. The government should have put their political agenda aside and acted on my bill two years ago or even late last year. They should have introduced their bill last November and let it lie on the table so that we could all have a good look at it. This is just another example of rushed legislation—because we only have six weeks left—and I bet they do not get this right, either. It is just another example of the Rann Labor government's wrong decisions, poor judgment and political naivety. They have been making wrong decisions for far too long—wrong decisions that they will continue to make, and wrong decisions that have helped destroy the lives of many South Australians.

More and more research and statistics are coming to light in relation to drugs and their dangers. I refer to the recent ABC television program *Catalyst* which, on 24 April this year, featured a segment on drug driving that was based on research conducted by Melbourne Swinburne University and the legislation that was introduced by the Victorian government. Interestingly, statistics now prove that drugs are responsible for more deaths on roads than alcohol. For years we have heard about the fatal mixture of alcohol and driving—what about drugs and driving? Where are these statistics? I have been calling on the Rann Labor government to release the statistics in relation to road deaths caused as a result of drug driving, but still there has been no action.

The program also stated that people who consumed cannabis before getting behind the wheel of a motor car had an almost seven times higher risk of being involved in a fatal crash than those who had not consumed the substance. It has also been proven that drivers under the influence of marijuana are more likely to drift across the road, have slower reaction times and have difficulty making complex decisions. If someone with a blood alcohol level of 0.04, which is below the legal limit, consumed a cannabis cigarette their blood alcohol level would be equivalent to 0.14—almost three times the legal limit. It is a lethal concoction and one that people are taking chances with far too often.

In conclusion, I want to put on the record a matter that occurred on 15 August during an interview with Leon Byner on 5AA in relation to drug driving, and on the non-publishing of drug driving statistics, in which I said, and I quote from the transcript:

> I'm levelling some criticism at the police for this because the police, particularly the Commissioner, has got to be above politics. Now if he's protecting the government by not releasing statistics, I think it's wrong.

Mr Speaker, I had no intention of imputing any improper conduct upon the Police Commissioner, but on reading the transcript it could be argued that I did so, so I have no compunction at all in offering my apologies to the Commissioner, and also apologise for any hurt or angst I caused him. He has my full support, and I have the utmost confidence in him and his position as Police Commissioner of South Australia.

SCHOOLS, GRADING

Mr O'BRIEN (Napier): Within recent weeks, South Australia's Minister for Education, Jane Lomax-Smith, and several of her interstate counterparts have successfully dissuaded the federal Minister for Education, Brendan Nelson, from his policy of linking federal education funding to a requirement that school reports include a student's performance in relation to his or her immediate class mates. Brendan Nelson's plan was to grade students according to the quartile of the class they were in. Brendan Nelson had no choice but to back down on this particular issue because his position was completely untenable.

At the heart of the matter is Brendan Nelson's readiness to use federal funding as a blunt and crude instrument to attempt to usurp control over an area that is constitutionally under the state's control, namely education. Minister Lomax-Smith and her interstate counterparts are fully supportive of plain English reports and grading student performance against their peers on a state-wide basis. I think everybody agrees that when a school report describes a student's level of achievement as 'consolidating' or 'establishing' skills, reports become meaningless. Statewide comparisons give parents an indication of where a child is against an anonymous mass. Whilst not perfect, such comparisons let parents know the academic strengths and weaknesses of their children. These comparisons also allow a teacher to modify his or her teaching program to meet the needs of the class. Furthermore, a state government can be alerted to schools that may require extra assistance or learn from schools that are doing well.

Grading students against their class mates, however, was an idea without any merit whatsoever. Anyone with experience of statistics is aware of the dangers of statistical analysis based on a too small sample group. If the sample group is too small, the conclusions to be drawn are misleading. Even in a standard class of 24 students, eight excellent students would cause several other students to have misleading grades. What can possibly be gained by producing grades based on a skewed standard of measurement? There was simply no support for the idea of grading students in the same class against each other. Professor Patrick Griffen, an expert on student assessment from the University of Melbourne, claimed that the plan dated, and I quote, 'at least from the 1950s.' Professor Griffen considered that Nelson's idea merited an F, a fail.

Parents have not been clamouring for class quartile grades because they understand that there is nothing to gain from such grades. The teacher already knows where his or her students are in comparison to the class. Parents want to know where their child ranks in a meaningful standard of measurement, not how they rank against Tom and Sally in their children's immediate peer group. Finally, and most importantly, it must be asked what benefit a child will gain knowing where he or she is in comparison to the children they play with at lunch or recess time. Brendan Nelson has backed down on his insistence of providing quartile class grades. The real question, though, is why did he link $220 million of federal funding to this scheme? Our government would not want to lose the money for our schools but neither did it want to introduce so-called nonsensical reforms.

The state government invests $1.7 billion a year into our schools. Schools have always been an area of state responsi-

bility, and we believe that we do an excellent job in our schools. The system works well and a large number of people around Australia are questioning why Brendan Nelson would wish to interfere. One would have thought that he would have been busy enough managing the portfolio areas that are actually under his jurisdiction.

This is not the first time that Brendan Nelson has made federal funding to schools conditional on compliance with minor but controversial issues. His insistence on state schools flying the Australian flag or teaching Australian values, springs readily to mind. I have no real problem with schools flying the national flag, but it is not going to make much difference to a child's education whether the flag is fluttering in the wind or not. Withholding funding to schools, however, will impact on a child's education. The use of a substantial sum of money to impose policy is a clear violation of state rights. Australia has been gifted with a federal system that works well. It should be allowed to function in the manner set down in the nation's constitution.

STATE ELECTION

Mr BRINDAL (Unley): The Labor Party believes that the next election will be a lay-down misère for a government that sees itself as being successful.

Members interjecting:

Mr BRINDAL: Members opposite chortle, 'Who says that?' It is the increasing opinion of those opposite, if you listen. I am reminded that, at about this time before the last election, I was approached by a very senior member of the then opposition, when I was a minister, who came to me and said that I best be careful, and when I asked him why he said, 'Because our polling shows that Unley is the line in the sand. We are so popular that we will sweep all before us, and you might be the last one left standing on the opposition, and as we're mates I'd like you to be there.'

An honourable member interjecting:

Mr BRINDAL: Members opposite can deny it. Go and ask some of your own ministry if that was not said. It was said. I do not come in here and tell lies and I am not telling a lie about that. At the end of the day, the election was held and it was much closer than anyone had predicted. I believe that we are witnessing a similar phenomenon at present. I believe that if you go out there and ask people who they think will win the next election, you would find very few people who would stand up and say that they believe the Liberal Party would be a party that they would currently put money on. Yet it is the way in South Australia when a poll is called that people, who ask questions between elections, then cement into often tried and true patterns and the whole thing becomes much closer.

I raise that in the context of what I consider to be a very interesting poll conducted last week in the state seat of Adelaide. I have an interest in it because I had previously nominated as the Liberal candidate for the area. I have a double interest in it because, having stepped aside as the candidate for the area, *The Advertiser* still asked the question: would you have voted for Mark Brindal if he had stood as the Liberal candidate for Adelaide? I wonder why they did not ask the question: would you have voted for Michael Armitage if he was still running or Michael Wilson if he returned from the dead? Who would you vote for in the seat? But, they picked on me, and they used it as a headline to say, 'Some 35 per cent of people have turned away from Liberal.'

I would actually say that for us all—not just for the member for Adelaide for whom this is a vital question—the poll shows some very interesting results. The question is: would you say you are very likely, quite likely or not at all likely to change your vote between now and when you vote in the next state election in March next year? If we analyse the results, 4 per cent of Labor said they were 'very likely' to change their vote in that seat and 23 per cent said they were 'quite likely' to change their vote. That means, if we take the Labor vote in Adelaide and we believe that poll, 27 per cent of Labor voters are saying that they are 'very likely' or 'quite likely' to change their vote. That is in contrast to the Liberal voters, of whom 1 per cent are saying they are 'very likely' and 13 per cent are saying they are 'quite likely'. It means that in the electorate of Adelaide Labor voters are twice as likely not to vote Labor at the next election as Liberal voters.

When we analyse what I think is a loaded question—since I have stepped down as the candidate for Adelaide—'Would you or would you not have voted for Mark Brindal?'—it is interesting that 9 per cent of committed Labor voters said yes and 12 per cent said they do not know. I think that is a message for this house that bears analysing. Given what *The Advertiser* likes to call 'the scandal' surrounding me, why when this so-called scandal is surrounding me would 9 per cent of Labor voters say they would change their vote. I would say that every member of this house should reflect on that and the possible answer to that question. This house is all too ready to jump up and down at the behest of right wing factional groups, evangelical churches, and the like, who make a lot of noise. In many ways it is this house responding to the cry of the angry elector or the noisy wheel, but other groups are out there—groups that are marginalised, oppressed and ignored—who have a right to have a say, who do have a say at the ballot box and who increasingly may be prepared to put their vote for social justice and a rightful cause in the next election.

Time expired.

ROADS, OUTBACK

Ms BREUER (Giles): During the break from parliament, I visited some of the most remote areas of the state. I did a journey of over 4 200 kilometres in 10 days. I did this mainly to inspect road conditions, because there has been a lot of publicity in recent weeks, particularly on regional ABC Radio and in regional newspapers, and also in some metropolitan media about the state of the roads. I also wanted to look at tourism needs and visit areas which I had not visited before but which are integral to my electorate and Outback tourism.

First, despite the views of members opposite, who have made much fuss about the state of the roads in the Outback and given it a lot of media coverage, overall the roads are still in very good condition. I truly believe this because I genuinely went to look at the state of the roads, and I say quite categorically they are still in very good condition. I did not hear many complaints at all about the roads. Mainly, I heard comments such as 'the roads are not too bad' and 'they're pretty good really'.

There has been rain damage to some of the tracks because there has been a considerable amount of rain in recent weeks in those areas. Certainly, that will need tidying up, but it is not major work. We can get the graders out there to work on those tracks to sort it out. One of the problems is that there are unrealistic expectations about the Outback roads that comes from city drivers who are out there in their brand new

fourwheel drive vehicles. They head out on the tracks and still expect the roads to be in perfect condition and bituminised.

It was interesting when we came to the Simpson Desert. We met up with some people just as we left the desert—and I was in a state of shock, I have to say. A person in one car said, 'What is the road like through there?' We said, 'Well, they're pretty rough.' He said, 'Oh, couldn't be worse than the roads we have just been on.' Now, we went on those roads and they were like magic compared with the Simpson Desert. The roads were not too bad. There was a bit of water damage, but they did not need much work at all. It was an unrealistic expectation on the part of a city driver.

We travelled along the Strzelecki Track, the Birdsville Track and the Oodnadatta Track from Oodnadatta through to Leigh Creek; also I went through the Simpson Desert. I cannot say that the Simpson Desert was in prime condition but I do not think it ever will be. It was a huge experience for me. I think I went there twice—my first and last. It was an absolutely beautiful area to visit. Some roads do require maintenance work and some roads need building work in the next few years, because they are now at a low level and they will need building up again. I think that with a sensible approach the government can work on those roads and get the work done. We do not have a major problem, as many people would like us to think.

I went to the Arkaroola Tourist Centre. That was the first time I had been there. It was an absolutely wonderful experience. I have to compliment the work done by Doug Spriggs and, in the past, his father. It is a gem of a place in South Australia to visit. It is absolutely beautiful. He took us on a magnificent flight over the Flinders Ranges. We had the most incredible time, and Doug is doing a good job there with his managers and staff.

We also visited Innamincka, another gem of a place that all people should visit, and of course that is where Burke and Wills died many years ago. We went to Birdsville and, from there, across the Simpson Desert. It is very important for travellers crossing the Simpson Desert to be well prepared. They should not think they can cross without all the safety equipment—telephones, GPS equipment and big aerials on their cars. It is very important, and I think we will lose a lot more travellers in the future if they are not careful. With the increase in tourism, I think that has to be highlighted to people. I pay tribute to my driver, who did an incredible job driving through the Simpson Desert. We went over sandhill after sandhill. I am not quite sure whether he saved my life or nearly killed me when we went over a big red kangaroo. He says that he saved my life but I said he nearly killed me, because we went roaring up the top of a sandhill, came to a stop very quickly, and he said some expletive about where the road had gone, where was the road, but he managed to get us down safely after that. I pay tribute to Gary Hough, because he did an excellent job, and I appreciate the preparation that he put into that trip and his driving while we were there.

DOG FENCE (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 1 June. Page 2910.)

The Hon. I.F. EVANS (Davenport): The Dog Fence (Miscellaneous) Amendment Bill 2005 will not take long. It is a minor amendment to the act, and the Liberal Party supports the bill. At this stage I know of no need to go into committee. The primary role of the dog fence of South Australia is to protect the sheep industry from predation by dingoes. The fence is about 2 178 kilometres long, as the member for Giles well knows, and is part of a continuous fence that stretches across three states, taking in New South Wales and Queensland. The dog fence is owned and maintained by the Dog Fence Board, local dog fence boards and private landowners. These owners who have the fence on their land can elect to form a local dog fence board. Currently there are six local dog fence boards across the state. The act was reviewed and there was a consultation process in the relevant areas. I will talk about some of the changes proposed by the bill.

Introduction of primary and secondary dog fences

Currently the Dog Fence Act restricts the maintenance of a dog fence to the northern areas of the state. Following public consultation, landowners expressed the need for the Dog Fence Board to maintain fences in other parts of the state. The primary fence is the fence already in existence. However, for the purpose of restricting the movement of wild dogs a number of secondary fences may be established inside the primary dog fence and proclaimed by the Governor.

Updated definition of wild dog

A feral dog will be included in the definition of wild dog, and I am pleased that has been clarified, because that has been playing on my mind for some time.

Board members

The term of appointment of Dog Fence Board members will now be for up to four years as opposed to a fixed term of four years, and as I understand it this is to allow rotation, or staggering, of the terms of office.

Consultation with owner or occupier

Currently the Dog Fence Board is not required to consult when moving or rebuilding a fence. The bill proposes that the board must consult with the owner of the fence or occupier of the land before any change to the fence may be made.

Board members may enter and remain on land

Currently Dog Fence Board officers may carry out work to maintain or inspect the dog fence if the owner has failed to do so. The bill provides that the board representative may enter or remain on the land where a dog fence is situated to undertake this work. Provisions will be made to compensate Dog Fence Board representatives and other authorised persons when acting in good faith under the act.

Ownership of the dog fence

Where a local dog fence board is formed, the ownership of that part of the dog fence is vested in the local board, and landowners adjacent to the fence have asked that they be allowed to manage their section of the fence. The bill allows the local board to vest ownership of the fence back to the adjoining landowner with the agreement of that landowner.

Funds

The Dog Fence Board funds its operations from rates on land, and this amount is matched by Treasury. This scheme will continue, but the bill proposes that the Dog Fence Board must now pay $250 to the landowner to maintain a kilometre of fence as opposed to $225 currently. Where the board imposes rates on land the maximum amount will increase from $1 to $1.20 per square kilometre.

Aggregating parcels of land

Currently the Dog Fence Board has adopted a policy of aggregating certain parcels of land into a single holding for rating purposes. The bill will formally legislate this policy and provide that a holding will be defined to include parcels of land that are farmed as a single enterprise.

Payment of rates to the Dog Fence Board

Currently the act does not allow the Dog Fence Board to take into account extenuating circumstances for the payment of rates by the occupier. The board will now have the authority to extend time payment as it sees fit. That basically sums up the bill. The opposition has no objection to the bill.

The Hon. J.D. HILL (Minister for Environment and Conservation): I thank the opposition for its support for this legislation. I think it is regrettable that the member for Stuart is not here today, because he has a great passion for the dog fence, and I am sure he would have made a contribution. I thank the opposition for its support. I understand we will not go into committee. Therefore, I take this opportunity to thank my parliamentary helpers on this—Mark Herbst, who is a legal officer of parliamentary counsel; Kevin Gogler from the department; and Michael Balharry, who is the manager of the Dog Fence Board. I thank them for their help in developing this legislation.

Bill read a second time.

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

That this bill be now read a third time.

Mr VENNING (Schubert): I missed the second reading debate, because it happened so quickly. We support the legislation. I have always been very conscious of the people who maintain the fence. Not only do the people who have the fence running through their property benefit but the rest of us benefit as well. In fact, the whole state benefits from the dog fence, so we should all help to pay for it in some way. As we know, dingoes can travel 30 to 40 kilometres a day and, if they get through the fence, it means that they can be down into the inside country very quickly. To say that sheep farmers in the Mid North do not have to pay anything towards the dog fence is quite false economy, because with the fence in the outlying pastoral country it protects all of us.

Many graziers in the South-East ask why they should be contributing towards the dog fence. We know that they, too, are very susceptible to dogs that can travel through the mulga and the scrub. Of course, today there are dogs and there are dogs. There are pure bred dingoes and then there are the half breed varieties, feral dogs, but we certainly know the damage that they can do. I congratulate our shadow minister on his second reading contribution. I particularly thank those farmers who have the fence running through their properties because they are the front line against the dingoes. If the fence is ever damaged, they pay the price because it is their stock that is damaged first. They raise the alarm when a dog gets through the fence. The dog is then found and destroyed and the fence is repaired.

Certainly the fence is a legend in South Australia. We should all pay tribute to those who administer and maintain the fence. I am pleased that the minister supports this legislation which supports the retention and maintenance of the fence, and particularly all those who live near it and maintain it. I support the legislation.

Bill read a third time and passed.

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

A quorum having been formed:

CORRECTIONAL SERVICES (PAROLE) AMENDMENT BILL

Consideration in committee of the recommendations of the conference.

(Continued from 7 July. Page 3228.)

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

That the recommendations of the conference be agreed to.

I am happy to commend the recommendations of the conference of managers of the two houses to the committee. The conference of managers was held on the bill before parliament rose in July. The conference considered three amendments that were in dispute between the houses. The first two amendments dealt with section 66 and automatic parole. The bill as received from the other place would have removed automatic parole completely, whereas the amendment made in this place and contained in the schedule as amendment No. 1 would retain section 66 but allow the Parole Board to deal with the following: first, prisoners in prison for sexual offences who would otherwise be automatically released on parole; and, secondly, prisoners of a class excluded by the regulations from the application of section 66(1) serving sentences of more than three years imprisonment.

At the conference, it was agreed to recommend that the house amend amendment No. 1 by deleting from proposed subsection (2)(b) of section 66 the words '(but the regulations may not exclude a prisoner liable to serve a total period of imprisonment of three years or less)' and that the other place agree thereto. This would mean that a prisoner with a non-parole period, who falls within a class excluded by the regulations, would be required to apply to the Parole Board for release, regardless of whether the sentence of imprisonment is for a period of more or less than three years. As amendment No. 2 is consequential, it was agreed to recommend that the other place should no longer insist on its disagreement to the second amendment.

Amendment No. 3 deletes clause 15 of the bill. Clause 15 inserted a new section 78 into the act, requiring the minister to table reports of recommendations of the board, conditions of release and the government's reasons for refusing to approve board recommendations. This is part of the Liberal Party's attempt to release McBride, Watson and Ellis from custody. That is now deleted. The conference agreed to recommend that the other place no longer insist on its disagreement to amendment No. 3.

Ms CHAPMAN: The Attorney-General has reported to the committee the determination of the deadlock conference and the recommendations from it. That deadlock conference met on 7 July, which was the last day of sitting. I well recall that day because a number of matters were being resolved by deadlock conference, with an expectation that they would be concluded on that day. I think we even sat past 6 o'clock to accommodate the conclusion of business that was important for the government to have concluded, and I think the opposition fully supported that. Indeed, on this occasion, during the course of the day we met at a deadlock conference and reached a resolution on this bill. I am not at all certain why it was not dealt with at that time and why it did not come

back to the house for conclusion. I do not know the answer to that. I place on the record that I was present in the chamber and ready to have this matter, amongst other things, dealt with to its conclusion.

Since that time, I have certainly read transcripts of statements made in the media by other members of the house, including the Attorney-General, concerning some dispute on the explanation, excuses or otherwise, as to why this matter had not reached the attention of the house. If one reads the contributions made in this place by the Attorney-General—and, indeed, supported by the opposition—on the early resolution of this matter, I think both sides of the house were keen to have this brought into operation, even though there had been some dispute as to the terms of how it would operate. I am at a complete loss as to why this matter was not, therefore, brought back to the house to be consistent with the government's statements that it was committed to ensuring that the parole opportunities for prisoners were tightened and was committed to implementing that.

I note that, notwithstanding the haste with which the Attorney-General and others representing the government, including the Premier, have rushed to media outlets to attempt to receive the accolade in relation to the early introduction of legislation such as this, they have failed to follow up with any real support for their rhetoric. This is a classic case of a bill having been introduced (in this case, in 2003) but its being mid-September 2005 before the matter is concluded. The debate on this measure took another 6½ months or so before it even came back onto the agenda for discussion. The real delay in this matter has been because the government rushed into the parliament, as it usually does, saying 'We're going to be the first to fix this up. We're going to attend to this immediately,' with the usual rhetoric of how it will provide the remedy and protection for South Australians. However, months and months later we dust off the cobwebs and hope that we will deal with this matter so ambitiously introduced by the Attorney-General that it needed to have hasty attention and deliberation.

As I said, I am at a complete loss. We were here on 7 July, but it has been another two months before we have had any opportunity for the implementation of the bill. I wonder about a number of things in relation to what has happened in that time. Let me make clear that the opposition's position was that we should have no automatic parole. The essence of the government's position was that, if it were less than the five-year period, there would still be automatic parole. Obviously, there were provisions to be identified in relation to sex offences and the like. So, that is where we came from in relation to this conference. The opposition has agreed to allow this matter to go through on the clear basis that the policy of the opposition is that there should be no automatic parole and that, when we are in government, in March next year, we of course will have the opportunity to change it and deliver real protection and real reform in the parole provisions. So, the correctional services legislation can and will be changed. I indicate that, upon a Liberal government entering this arena on or about 20 March 2006—

The Hon. M.J. Atkinson: Well, parliament won't sit that quickly.

Ms CHAPMAN: Well, it might. If we are in government, we will get on with things, and we will ensure that this situation is remedied. In the meantime, what will be the consequence, even with the passage of this legislation? We have a scenario where, under the agreed terms, which the government has insisted upon, people could be released from prison. Indeed, a number of prisoners may well have been released since November 2003 when the government introduced this legislation. I think it is important for the government to make sure that we understand this.

How many people have already been released from prison or will be released from prison before this situation is properly remedied? I am talking about prisoners who have been convicted and imprisoned for offences that include manslaughter; driving causing death; assault occasioning grievous bodily harm; sexual assault; sexual offences where their consent is prescribed; other offences against a person, including acts endangering life generally; armed robbery; other robbery; breaking and entering; burglary and unlawful entry; fraud and misappropriation; handling stolen goods; theft or illegal use of a motor vehicle; stealing from a person; property damage; unlawful possession, use and/or handling of weapons; child pornography; possession and/or use of drugs; dealing and trafficking in drugs; and manufacturing and growing drugs. They are just a few of the offences.

Of course, there are myriad child welfare matters that carry offences for which imprisonment terms could be under the threshold. What that means is that these people will be paroled automatically, because their sentence is less than the prescribed period under this agreed arrangement. People have either been released or can be released between now and when there is reform in this area. That is the nature of the offences committed in that category for which the government will be responsible under this amendment to the law which, in its watered down form, will be allowed to prevail.

So, when someone who has assaulted their son or daughter causing damage, having been given a two-year imprisonment term, is released, they are released automatically on parole. There is no requirement to make any assessment about whether they have had any treatment. They will be released and, of course, the opportunity is out there for them to re-offend. We know that, in the absence of parole, there is really no assessment to deal with the matter. In the meantime, the responsibility for those who are released will be on the head of the government.

I indicate, with considerable reservation, that the opposition accepts the determination, as indicated by the deadlock conference. This matter will be remedied when the Liberal Party is in government, that is, in relation to those crimes where the victims are vulnerable and victims of serious offences, offences involving weapons and offences where the elderly, children or the disabled are the victims. We want this situation remedied.

Motion carried.

[Sitting suspended from 6 to 7.30 p.m]

DEFAMATION BILL

Adjourned debate on second reading.

(Continued from 2 March. Page 1840.)

Ms CHAPMAN (Bragg): This bill, introduced by the Attorney-General on 2 March this year, essentially brings together a history of the state laws that have been substantially based on the common law in each of the states. In each state that has been altered by legislation, and in South Australia that legislation is the Civil Procedure Act, formerly known as the Wrongs Act. There is no question that the merit of introducing this legislation recognises that in each Australian state there are differing laws relating to defama-

tion, and that has brought some complications and costs. It is fair to say that, in addition to the state and territory laws, some of that complication is a result of the commonwealth legislation, which relates to broadcasting and television affecting the laws of defamation.

The difficulty in this area, from the commonwealth perspective, is that it does not have the constitutional power to cover the field in defamation law. I will refer later to other action taken by the commonwealth to instigate and initiate significant reform, but the two major difficulties that have flowed from the current system that operates with different defamation laws applying in each state is that their complexity has led to very long trials, some uncertain results and, unquestionably, great cost to the litigants involved. Perhaps one of the most blinding examples in recent times of how inefficient the processes have been as a result of this variation in laws is the action by the former member for Florey, Sam Bass, in which he took proceedings, had to go all the way to the High Court and was sent back again, and incurred considerable cost to obtain a result. Although successful in those proceedings ultimately, he received no financial compensation for what had been a very arduous and lengthy process.

It simply highlights to us in this house (and particularly to the opposition) the need to have some if not reform at least approach to introducing a better system, or at least the bare bones of what ultimately can be a better system. The second area that causes concern is that there is a lack of uniformity across Australia. In a lot of legislation that does not matter and, in fact, the uniqueness of the circumstances in each state needs to be respected and can be more appropriately recognised by state-based legislation that takes into account local factors. Probably, one area that is distinctive in the South Australian system, which has been different from a number of other jurisdictions and which is to be applauded, is that we have moved away from the jury system for civil trials, and that is not something shared around Australia.

The Hon. M.J. Atkinson: We did that in 1929.

Ms CHAPMAN: Indeed; for some 50 years or so we have not operated like that, and I applaud that as being excellent—in fact, we are leading the country—but other jurisdictions have not seen the merits of that, and they have still retained the vestiges of the civil jury system. The aspect of lack of uniformity in this area is of significance because there are many media organisations now and, with the concentration of media ownership, perhaps one can appreciate the significance of this. Quite often, on a daily basis, they are issuing publications which are available and published in multiple states and territories and, therefore, they are liable to be sued in several jurisdictions in respect of the same publication. It brings about, somewhat uniquely in this area, a call for uniformity.

It is fair to say that this is an area which has caused concern for a number of years and, in fact, politicians and lawyers and representative spokespersons on their behalf have talked of reform for over 30 years. There have been some piecemeal attempts especially in New South Wales. From time to time, attorneys-general have met independently to advocate reform, and a serious proposal for uniform laws was first raised in 1979, so this is not a new issue but it has been a difficult one to ultimately confront. In the face of the inability of legislators to reform the law, the High Court stepped into the breach in a series of decisions in the 1990s—the principal decision being Lange v Australian Broadcasting Corporation in 1997 which widened the freedom of publication of comment on matters of politics and government interest.

However, when we find that we are blessed with a federal Attorney-General who in a Liberal government has determined that enough is enough and that we do need to move along in this regard, he effectively identified that, unless this matter was remedied, they would consider use of the corporations power in the Australian Constitution to override the states and to introduce a national law. That was the environment in which there has been some action in recent years—some duress almost—to ensure that we actually move this along.

In July 2004, the states—all Labor at that time—had produced the proposal for uniform defamation laws report, which contained 21 recommendations for a uniform law. Motivated, I suggest, by the challenge from the federal arena, they decided that they would get on with conducting a report and producing the recommendations. Essentially, this is a bill which has been introduced which largely has been replicated around the country as a result of that report. The agreement between the attorneys-general is to bring into operation a new law which will be effective from 1 January 2006, although the government introduced the bill on 2 March this year, and it has claimed the early attention to this matter, which I will comment on shortly.

Clearly, there is some pressure to bring about the passage of this legislation both here and in other states so that the effect of its operation can be undertaken as of 1 January 2006. It is important to note that the bill has been prepared by the New South Wales parliamentary counsel—it has not been produced by our parliamentary counsel in South Australia—so we are essentially following the New South Wales precedent in the introduction of this bill.

There are some aspects that have not been followed through, and I think it is worth making some comments in relation to them. The first is that, as I mentioned, there are no juries in South Australia for civil proceedings, a situation that has prevailed for more than 50 years; however, in all states and territories except our state and the Australian Capital Territory defamation actions may be heard by juries. My understanding of that situation is that it is not commonly used—probably, I believe, because in some jurisdictions the plaintiff has to make some contribution towards the cost of empanelling and operating the juries, which would be a major disincentive to exercising that option.

The one recommendation of the proposal for uniform defamation laws that I referred to which has not been adopted is the recommendation that the court should have the power to order the publication of a correction where it finds that a person has been defamed. The media industry—which is essentially the journalists and the media proprietors—took some exception to this recommendation, and was clearly outraged by any potential legislation which it perceived would impede the freedom of the press. On the face of it, this is a recommendation which has some merit, but it appears the Labor attorney-generals have backed down on this recommendation and have chosen not to implement it in the legislation.

In the face of litigation, responsible media outlets are prepared to publish a retraction or correction and, on meeting with members of the media, they have said that when they are wrong they quite responsibly take action to publish a correction and remedy the situation. The important aspect of this is that one of the complaints in relation to a defamatory statement published by a media outlet is that the correction

or retraction is often in a subsequent publication and buried in the back of the paper; it is not as prominent as the original published comment or statement which has been injurious to the victim of such defamatory statement. I would have thought that on the face of it the recommendation of the proposal for uniform defamation laws report was, in fact, of some considerable merit. In any event the Labor attorneys have backed down and, I think, shown some lack of courage in that area; nevertheless, that is the position that has been presented.

There are a number of aspects that have not, in fact, been covered by this legislation, but the Liberal opposition takes the view that, whilst there is some deficiency in the comprehensiveness of this reform, it is at least a beginning—and it is an important beginning. We have heard submissions from representatives—most recently from Free TV Australia, a body that has forwarded correspondence and submissions principally under the hand of a Julie Flynn on behalf of the Combined Media Defamation Reform Group. That represented groups including the Australian Associated Press, Australian Broadcasting Corporation, Free TV Australia, John Fairfax Holdings, News Limited, Nine Network, Network Ten, Seven Network and a multitude of other organisations which own both electronic and printed media outlets.

So, whilst they have highlighted in their submission some other significant areas of reform that they would like to see in this area, they acknowledge that the agreement that has been reached is a good start and, therefore, whilst they have some concerns about the extent of the comprehension of this, they are prepared to support the same, and Melvin Mansell the Editor of *The Advertiser*, which is our daily newspaper here in South Australia, has also indicated support of at least the skeleton of reform which is comprised in this bill.

There are a number of changes to South Australian law which will be significant, and in the first area that I mention I note that the Attorney-General has foreshadowed an amendment. The proposed bill provides that for-profit corporations will not be allowed to sue for defamation. Not-for-profit corporations will still be able to sue. There is longstanding law in relation to this and it recognises the status that corporations have and that they both enjoy and have responsibility for, and there are some good arguments either way for corporations effectively losing their status and capacity to be able to sue for defamation, but on balance the arguments are persuasive to introduce legislation which will no longer allow that.

One of the concerns of the opposition has been that in relation to smaller corporations they ought to be able to continue to have access to this entitlement. There are good arguments for it and I will not traverse them now because, although the opposition felt it was important to consider an amendment to the legislation, the government has followed the agreement that has been negotiated effectively and reached between the Hon. Bob Debus, who is the Attorney-General for New South Wales, on behalf of all of the state and territory attorneys, and the Hon. Philip Ruddock as the Attorney-General for the commonwealth.

So, they proposed an amendment which came into effect and I think was first published in the state regimes in Western Australia recently and which enables a corporation to be defined as an excluded corporation if (a) the objects for which it is formed do not include obtaining financial gain for the members or corporations or (b) that it employs fewer than 10 persons and is not related to another corporation. In other words, it is not a wholly owned subsidiary of another substantial corporation. This largely addresses the concerns that the opposition has raised, of which smaller entities ought to be able to have the right to sue, rather than their directors or shareholders having to have the carriage of that responsibility, and in due recognition of the fact that in almost every other way we recognise the corporate structure of an independent entity which otherwise has obligations and entitlements. That foreshadowed amendment is one which the opposition has considered and which we feel goes a significant way toward accommodating the concerns raised. We thank the federal Attorney-General and the New South Wales Attorney-General for negotiating this compromise which will have the effect of amending clause 9 of the bill and which will protect those at least in a very small enterprise arrangement under a corporate veil with that protection. Again, in anticipation that that may be forthcoming, the opposition has conferred with some members of the media who have, of course, a significant vested interest in this area and that is one that is satisfactory to them. That is, I think, a very important aspect and the government has seen good sense to follow suit.

I might say that in relation to the claim by the Attorney-General in this state—that the government's introduction of this bill in March this year has been leading in the country—it is the usual publicity that goes around with these things. The government says, 'We are going to act on this. We are going to attend to this. We are going to be the first in the country. We are going to show the way.' What has transpired is that we have exposed the fact that South Australia is not only limping along behind but, having rushed and hastily tried to get the accolade of being the first in the country to introduce the bill, in fact, the government has typically had to come back, lick its wounds and acknowledge the fact that other things needed to be attended to. Now, of course, it is faced with a somewhat embarrassing backdown, having to introduce the amendments which have been negotiated in another state, and we have had to follow suit. Nevertheless, whatever embarrassment the state government might feel in relation to its botching of this process, the opposition still accepts the importance of this legislation passing.

I will make a brief comment in relation to the capping of damages, because this bill proposes to cap damages in respect of the hurt feelings of a plaintiff to $250 000, which will be indexed. Damages for economic loss—that is, loss of earnings, profits, and so on—remain unlimited. I think it is important to note that, to the best of the opposition's knowledge, no-one in South Australia has ever received damages which even remotely approach this cap.

The Hon. M.J. Atkinson: That is not quite true. The Chakravarti case would be above that cap, I think you will find.

Ms CHAPMAN: The Attorney interjects to suggest there may be one case in which that has occurred.

The Hon. M.J. Atkinson: Chakravarti was more than that, I am pretty sure.

Ms CHAPMAN: The Attorney offers a helpful contribution, for a change, to suggest there was one case in South Australia that had exceeded that cap.

The Hon. M.J. Atkinson: Chakravarti was above that because of economic damage. This is a non-economic loss cap, so the member for Bragg is right.

Ms CHAPMAN: I thank the Attorney for that interjection. Nevertheless, it appears that we are correct in that we have not approached that cap, so there is not going to be any significant or real disadvantage to South Australians. As often

is the case, South Australia is certainly a long way behind a number of our sister states in relation to the level of damages which have been imposed in litigation in a number of areas in which damages have been assessed. That is a matter which the opposition is happy to look at. Punitive and exemplary damages are to be abolished. Again, this is a rare situation in South Australia, so the opposition has no objection in supporting that. The defence of triviality in South Australia is to be introduced. That already exists in a number of states, and I think that is an important initiative.

The distinction between libel and slander has always been confusing and is to be abolished. I suggest that the common law has never been able to deal clearly with a situation where, for example, a comment had been made, which is pretty straightforward slander, but when it is replicated in a written or permanent publication we can have a libel action as well. So, this distinction can cause some complications. Irrespective of the mode of publication, whether one were to voice it, SMS it, email it, or place it in a newspaper, we are going to break down the barriers and abolish this distinction, which really has been quite technical.

The bill preserves the common law except to the extent that it is modified by the provisions of the bill itself, and clauses 6 and 22 attend to that. This is always important because when we have legislation which attempts to, in a way, codify a system of law and take it away from the common law, we take away hundreds of years of established principle which can provide important protections for both plaintiffs and defendants in these situations, and that is an important aspect of providing protection.

Regarding the provision for a defendant to make amends and apologise, in New South Wales and the ACT this provision prevails. This is important because it is not always possible for a remedy to be a monetary payment or even a publication of an accurate position. If there is a public acknowledgment by the offending party—for example, a newspaper publishes an article which is clearly libellous and then publishes a retraction—that may provide some comfort to the plaintiff or the victim who has been offended, but an apology in those circumstances can also amount to recognition, and if that apology is published it sets the record straight. This is an important aspect of the bill.

As I have said, this legislation is probably defective in that it does not cover the field completely with respect to having a uniform defamation law of a high standard which is able to operate and which covers all of the matters which are important in this area. We have a negotiated agreement between the states which really is the lowest common denominator in relation to achieving uniformity. I expect and hope that this government or subsequent governments will carefully monitor this legislation, so that where the media, other stakeholders, journalists or plaintiff associations, for example, are able to identify other areas of reform, we can quickly bring those on board to ensure that we actually have a very effective system, not just a bare skeleton from which to start.

So, I indicate to the house that the opposition will support the bill. I thank the government—in spite of the fact that they have hastily brought the matter into the house—for at least ensuring that proper consideration is given to this matter by the principal negotiators: effectively, the Attorney-General of New South Wales and the Federal Attorney-General. We will accept their recommendations and the amendments that are foreshadowed. I note that the Attorney-General has given notice of a number of other amendments that he will move, some of which simply attend to drafting changes which are necessary because of the principal amendment that has been foreshadowed. As has been indicated, these amendments are to make the core provisions of the South Australian bill the same as those of other jurisdictions.

We might have had to play catch-up but at least the delay in debating this matter has allowed this to occur. It would have been neater and smarter for the government to have all these matters sorted out in the first instance, then we would not have had to attend to a piecemeal approach to patching up this legislation to make it effective and efficient. However, at least with that amendment we are now starting with the bare bones, and I look forward to the passage of the bill and its implementation in due course.

Mrs PENFOLD (Flinders): This bill contains a provision that would eliminate the right of many small companies—that is, the bodies that employ most of the people in this state and take the risks and responsibilities associated with doing so—to sue for defamation. A recent foreshadowed amendment by the Attorney-General states that it will now exclude a corporation if 'it employs fewer than 10 persons and is not related to another corporation and the corporation is not a public body'. However, from small businesses big businesses grow, and this will be yet another disincentive for them to employ people. No-one will want to employ more than 10 people, or full-time equivalents, for fear of being open to malicious defamation that they cannot defend. It will be a very similar disincentive to that which currently exists with respect to payroll tax, where businesses conscientiously ensure that they do not employ so many people that they reach the payroll tax threshold because of the hassle and risk of inadvertently not complying and attracting fines and aggravation from the relevant department.

There is also the concern of the small company with under 10 employees being not related to another corporation and the corporation's not being a public body. Recently, I understand that some companies were considered to be related to another company if they gave a donation to that company. The cost and difficulty of trying to ascertain whether or not some such relationship exists should help to employ a small army of government employees and lawyers at great cost to the taxpayer and to the small company trying to prove that it does not have such an association or, conversely, the government's working out if it does. It sounds like the makings of a good small business nightmare. So, potential big businesses stay small and do not fulfil their potential to employ more people and pay more federal taxes. Now that the state receives the GST, there is absolutely no reason to have such stupid state disincentives working against small business expansion.

Not for profit companies will still have the right to sue, as will councils. However, it will come as no surprise to anyone that public bodies, such as government or public authorities, will not have their right to sue taken away (of course, the government is looking after itself), but companies with more than 10 employees will be on their own. Although some small businesses in the state are sole traders, partnerships or small companies without 10 employees or equivalent, thousands of our small businesses that are the backbone of South Australia's economy are companies with more than 10 employees. The smaller the business, the more vulnerable it could be to the damage that can be inflicted by an attack on its reputation and the goodwill that is associated with it.

To quote the government's own statistics, South Australia has more than 85 000 small businesses, which represent

96 per cent of all businesses and which employ well over 220 000 South Australians. If an extreme activist or a union, or maybe an ex-employee who is harbouring a grudge or a competing company, wants to make an outrageous claim about a certain company in the media, as I understand it, they will be free to do so without fear of being sued by the company if this bill goes ahead. It does not appear that the Attorney-General has thought through the ramifications of this bill. As I see it, it puts the viability of businesses and the livelihoods of their owners and employees at risk. In business your reputation is everything. If that is destroyed it can be very hard to go on. Many small business people who have worked long hours, often for less pay and time off than their employees enjoy, in anticipation of being able to sell their business for a profit, could see what is their superannuation disappear. The capital gain on a business often forms the only superannuation that a small business person is likely to receive when they are ready to retire.

To use a small business example, someone with a grudge or acting on behalf of a competitor could claim that the food from a particular restaurant has given customers food poisoning. If there is no threat of being sued for defamation by the company the person could repeat those claims in the local media. One does not have to be a genius to work out what effect that would have on the business's trade. In other spheres, if someone, such as an animal activist, had it in for the chicken industry they could make untrue claims that chicken meat from a particular company contained unsafe levels of steroids. Rival accounting firms could put the word out that their competitors are defrauding their customers. Rival electrical appliance stores could claim that others are selling stolen goods. There are hundreds of possible such scenarios under this bill where the company may be prevented from suing when under any kind of natural justice they should be able to do so.

This section, which would remove the right of companies to sue for defamation, is a perfect example in my view of this Labor government's complete lack of understanding of what life is like out in the real world of business. That is no surprise given that most of them only know the protected world of working for the unions, the Labor Party or the government. Not only is this government unwilling to provide an environment that is conducive to private enterprise, they will go so far as to make things even harder by removing the right of businesses to defend their hard won reputations.

So far I have not seen any explanation or justification from the Attorney-General about why he wants that right taken away, and I call on him to reconsider this section of the bill with a view to at least increase the number of employees so it will only affect those businesses that I would consider to be very large. This provision will certainly affect many of the companies based on Eyre Peninsula, particularly in the fishing and aquaculture industries.

Mr HANNA (Mitchell): On behalf of the Greens, I am pleased to support the second reading of the defamation bill, which the Attorney-General has brought into the House of Assembly. There is much good in it. Of course, every one of us who knows about these matters could probably offer different points of view and make further suggestions about how the law might be improved. Nonetheless, it is an extraordinary achievement that after literally 25 years of negotiation the states have got together to find a common position on defamation law.

My beginning in politics, at least at a more involved level, was working for the Hon. Chris Sumner. I recall discussing with him his frustration through the 1980s and early 1990s at being unable to achieve agreement with other attorneys-general in relation to this particular matter. It is good that we have a uniform defamation law in Australia. It is good that this bill has provisions such as the speeding up of the process so that plaintiffs will be encouraged to get on with it.

To illustrate the reason for complaint in this regard, I have been a close student of the Chapmans' litigation—nothing to do with the member for Bragg, but everything to do with the Hindmarsh Bridge protests of the early 1990s. As I understand it, after a string of numerous defamation complaints against a range of protesters, protest groups and others associated with the case against the Hindmarsh Island bridge development, the final Chapmans' lawsuit has settled recently. That is basically a span of defamation actions covering about 12 years. That is how long litigation can drag on under the current law, so to have that process forcibly speeded up by legislation is a good thing.

Before turning to a couple of significant omissions in the bill, I refer to the remarks of the member for Flinders. Her contribution is so utterly unfounded in fact and knowledge of the law that it is wacky; it is really outlandish. She talks about businesses being forced to restructure or shed labour in order to get the benefits of the proposed law that corporations with less than 10 employees will be able to sue for defamation.

The honourable member gave a number of examples where rival firms could slander each other and not have relief because there is still a substantive prohibition on corporations suing at least larger corporations. All the matters to which the honourable member referred are covered by the existing law, whether it be under the tort of injurious falsehood or under the Trade Practices Act for misleading conduct; and, probably, there are other remedies which do not come to mind immediately. It is also worth clarifying that, under this proposed legislation, public corporations and councils will not have the right to sue. I think that the member for Flinders might have been wrongly advised in that regard.

I turn to a couple of matters which I believe have been regrettably unaddressed in the formulation of this bill. The first matter I mention is what I call 'SLAPP' lawsuits. It is a term coined in the US for strategic litigation against public participation. The point there being that corporations, whether they be developers, miners or exploiters of natural resources in various ways, have sued protest organisations and critics individually to silence that protest and criticism. They have therefore used the legal system to squash free speech, and that is highly regrettable.

Nothing in this bill addresses that problem. In fact, I have formulated a bill which does address the problem; but, rather than trying to tack it onto this legislation, I will be introducing a private member's bill tomorrow in this house dealing with that issue so that people do not sue improperly and abuse the system in that manner. Secondly, I am extremely disappointed that the Labor attorneys-general have compromised in relation to the ability of the right of corporations to sue. One can understand the federal Liberal government being friends of the big corporations around Australia and wanting to benefit them and help silence their critics by allowing the right to sue for defamation.

In fact, as I pointed out, in most commercial contexts there are existing remedies for corporations that have untrue things stated about them. However, when it comes to public protest about developments (perhaps about new products on the

market which might be offensive to the morals of some in our community), the federal Liberal government has let us down by bowing to the call of the major corporations around this country. Regrettably, the Labor premiers—or attorneys-general—have bowed to this pressure as well.

The result is a so-called compromise, whereby corporations with fewer than 10 employees will be able to sue for defamation. The reality is that, where individuals have been identified with a particular company and a slur has been cast upon the activities or products of a company, the individuals have been able to sue so long as they have been able to prove that they are identified with the slur. Indeed, there can be no better example than that of the Binalong family company of Tom, Wendy and later, I think, Andrew Chapman. The Chapmans in their various defamation actions had to argue that they were identified when Binalong—and the 'developer' in the general sense—was referred to in criticism of the Hindmarsh Island bridge development.

In the event, they were able to do that on occasion. This legislation will make it easier for company directors in that situation to sue for defamation. The problem with it is that it becomes very difficult then for the average person, the public-minded citizen, to criticise small businesses for their products or activities. So, if in my electorate people want to campaign against a so-called adult products shop and they are concerned that the premises might be used for prostitution or something like that, this will give the right to the business owner—indeed, the company owning the premises—to sue for defamation. That is an unhealthy development, which I think will cut the noses off public-minded citizens who justifiably want to protest against the products or activities of corporations. That is a really disappointing development, and I will do everything I can to prevent that going through. I am, of course, faced with the Labor-Liberal coalition in this House of Assembly when it comes to these matters, and I do not like the chances of my protest being successful.

I will finish with a thought which obviously has not been considered in the formulation of this bill but which I think really goes to the heart of defamation matters. I have long been of the view that the ideal remedy in these cases would be an immediate court-ordered publication of apology. What I mean is that the plaintiff could go to court on an urgent basis and ask for an apology with the same sort of profile as the alleged slur and, on the basis of a fairly quick judgment, the court could order such an apology, with appropriate penalties being embedded in the law for plaintiffs who wrongly went and sought such an apology. But what that would do is create an almost immediate remedy. It would mean that where a reputation was harmed through the publication of a slur the same media outlet—the same publisher, whoever that might be—would have to correct that false image that had been cast. It is a proposal that I will keep in mind for future reform.

This bill could have been an opportunity to get to the nub of defamation matters and do more immediately to restore the reputation of people who have been slurred. Having said that, the Greens support the legislation. There is certainly a great deal of good in it and there is an intrinsic value, it must be recognised, in having uniform defamation laws around Australia.

Mrs REDMOND (Heysen): I want to make a couple of brief comments by way of contribution to this debate, and I promise I will not keep the house long. I know a number of members say that habitually and then proceed to use up their 20 minutes, but I imagine I will be less than five minutes. I note that the Attorney has his stopwatch out.

I am very much a states' rightist, and I agree that defamation is one of those areas in which there is a need for a national approach. Given that we have national news bulletins, and so on, I can understand that many of the media people have great difficulty, and it is hardly fair for them to try to put on national news bulletins which they then have to vet according to different rules in each of the states. It is rare for me to think that we do need a national approach on things. I do believe that we are getting far too many areas where the commonwealth government is saying, 'We need a national approach' and there is absolutely no justification whatsoever. However, in the case of defamation law, I happen to agree that, yes, a national approach is probably a good idea.

One of the benefits is that it will bring the other states into line with this state where truth is already a defence. In South Australia, that is already the case, as I understand the law. I think it is only reasonable that the other states fall into line with our view on that. The key issue for me in this defamation bill is the issue of whether corporations should have the right to sue for defamation. People have put the argument to me that individuals can still sue; the directors can still sue. That is all very well if the company is Isobel Redmond Pty Ltd, then Isabel Redmond certainly can still sue. However, it equally seems to me that, if the company is Stirling Legal Services Pty Ltd and I happen to be the director, being able to sue as the individual director does not cover the issue. If my company is defamed, that can put an end to my livelihood.

I note that there is a proposed amendment, but I also note that it does not really deal with the issue as comprehensively as I would want it dealt with. It only excludes those corporations that have fewer than 10 employees, so they are even smaller than the usual definition of a small business. It seems to me only reasonable to allow companies to sue for defamation. It is a very complex area and one of the most convoluted areas of law in which to work. I ran only one defamation case to trial in all the years I was in practice, and it was one of the very few that did go to trial in South Australia.

The aspect of national uniformity that I would fear is that we in this state would end up with a situation where we are getting payouts as high in quantum as the amounts that have been awarded in other states. For instance, many years ago there was the case of a footballer, Andrew Ettinghausen, who took defamation action over the publication of a picture of himself, and in New South Wales he was awarded something like $300 000. At that stage, the highest award in this state for a quite significant defamation had been in the case of Dr Humble, and that was only about $50 000. The case in which I was involved was the second highest defamation payout at the time.

The Hon. M.J. Atkinson: What was that?

Mrs REDMOND: That was an amount of only $26 000, and in fact an appeal was lodged and we negotiated a settlement rather than take it to appeal, and it went down to $15 000. The Attorney asks, 'What was the case' and, quite honestly, it was so many years ago that I cannot remember, but it was back about the time of Ettinghausen's case. I think we need to be very cautious about any idea of taking away the right of companies to sue for defamation. Companies can be injured. I have no difficulty with the existing law and we do need to recognise that merely saying that the directors can sue does not solve the problem. The directors may not be personally defamed. There is a real dilemma if one goes

down the path of saying, 'We cover this by simply saying that directors can sue.' I note that at least the government is proposing to come part way by making exemptions for the smallest companies. With those few words, I conclude my remarks on the bill.

Mr SNELLING (Playford): I wish to make a short contribution. I support the legislation. One of the things that it will help overcome is jurisdiction shopping when a plaintiff in a defamation case tries to find the jurisdiction with the highest possible return. I think that needs to be avoided, and having uniform legislation will help achieve that.

I also agree with the provisions that are intended to provide incentives for the early settlement of disputes and to encourage early corrections, apologies and replies to correct errors. I think that is a very useful part of the proposed legislation. Because of the way the system works now, it can have the unintended effect of discouraging early settlement and particularly discouraging corrections. So, I think that if this legislation can rectify that aspect it is an important and positive step.

I also agree with the capping of damages for non-economic loss. I cannot understand why someone who is physically injured (with the loss of a limb or an eye, for example) can, potentially, receive a smaller payout than someone whose reputation is injured. I think that physical injuries are worthy of greater compensation than is reputation.

Ms Thompson: Sticks and stones may break my bones, but names will never hurt me.

Mr SNELLING: Indeed. I support this legislation, and I welcome its speedy passage through the house.

The Hon. M.J. ATKINSON (Attorney-General): I was not intending to speak, but the member for Flinders was in error. Local government councils cannot sue now, and they cannot sue under the bill. The member for Flinders asserted that they could. The second thing to say about the examples given by the member for Flinders is that, in each of them, the corporation could sue for injurious falsehood or for false and misleading conduct under the Trade Practices Act; that is to say, there are remedies other than defamation for the matters the member for Flinders raises. Corporations would not be without a remedy in those circumstances. I commend the bill to the house.

Bill read a second time.

In committee.

Clauses 1 to 3 passed.

Clause 4.

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

Page 5, lines 25 and 26—Delete the definition.

I put this amendment on file in April 2005, along with some other minor amendments. These are on file as 'Amendments to be moved by the Attorney-General (1).' Those amendments have been absorbed into the 22 amendments standing in my name as 'Attorney-General (2)'. When I introduced the bill, it was thought that the model definition provisions from which the bill was copied were in their final form. Afterwards, some changes were made to the model provisions through Parliamentary Counsel's Committee. I will move the 22 amendments to the bill so that it is the same as the bills of other states and territories. This amendment is to remove the definition of 'publication'. It was realised that the definition is defective. As the meaning of 'publication' in defamation law is well known, it was decided that no definition is necessary. The definition has been deleted from the model provisions. It is not in the bills introduced recently into the houses of parliament of some other states. Therefore, I move that the definition be deleted.

Amendment carried; clause as amended passed.

Clauses 5 to 8 passed.

Clause 9.

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

Page 6, lines 17 to 27—Delete subclauses (1) and (2) and substitute:

(1) A corporation has no cause of action for defamation in relation to the publication of defamatory matter about the corporation unless it was an excluded corporation at the time of the publication.

(2) A corporation is an excluded corporation if—

(a) the objects for which it is formed do not include obtaining financial gain for its members or corporators; or

(b) it employs fewer than 10 persons and is not related to another corporation and the corporation is not a public body.

(2a) In counting employees for the purposes of subsection (2)(b), part-time employees are to be taken into account as an appropriate fraction of a full-time equivalent.

(2b) In determining whether a corporation is related to another corporation for the purposes of subsection (2)(b), section 50 of the *Corporations Act 2001* of the Commonwealth applies as if references to bodies corporate in that section were references to corporations within the meaning of this section.

(2c) Subsection (1) does not affect any cause of action for defamation that an individual associated with a corporation has in relation to the publication of defamatory matter about the individual even if the publication of the same matter also defames the corporation.

This clause would take away the right of corporations, except for not-for-profit corporations, to sue for defamation. One of the arguments for this is that corporations do not have feelings of mortification, loss of self-esteem, and so on, that can be assuaged or restored by the award of damages. As a former Northern Territory judge put it, 'Would the corporate seal blush?'

The exception for not-for-profit corporations was included because of concern by some jurisdictions about defamation causing the drying up of philanthropic support and their limited financial and other ability to restore their reputations by non-litigious means. The amendment that has been put on file by the member for Bragg would remove clause 9 altogether so that there would be no statutory restrictions on corporations suing for defamation. My amendment is a compromise. It would remove clause 9 and substitute an alternative provision. The compromise provision should satisfy people who are concerned about small business and satisfy people who are concerned about large corporations using their wealth and power to stifle criticism and debate.

The compromise would allow not-for-profit corporations of all types and small corporations to sue for defamation, as they can now. Small corporations are those which employ fewer than 10 people and which are not related to any other corporation. For the purpose of counting the number of employees, part-time employees are to be counted as an appropriate fraction of a full-time employee. For the purpose of determining whether a corporation is related to another corporation, the test used in the Corporations Act 2001 is to be applied. There will be no change to the common law that public corporations, such as local government councils and government corporations like those under the Public Corporations Act, cannot sue for defamation. So much for the member for Flinders' point.

The common law right of natural persons who are so closely associated with a corporation that they are identified by the defamatory matter would be preserved by subclause (2)(c). The compromise provision came about because the commonwealth Attorney-General opposed any restriction on the ability of corporations to sue. The Hon. Bob Debus, Attorney-General for New South Wales, was authorised by all the state and territory attorneys to attempt to reach a compromise. The compromise clause has been accepted by all state and territory attorneys-general, and it is—or I expect it will be—in the bills of all other states and territories.

There have been many diametrically opposed submissions about whether corporations should be able to sue for defamation. Submissions from those who agree that there should be some limits do not agree about what the limits should be. Business SA and the Business Council of Australia oppose any restrictions. On the other hand, organisations interested in matters such as the environment, some academics from various disciplines and organisations for free speech believe that corporations tend to use the threat of legal proceedings to stifle criticism and debate about their activities and motives. They refer to SLAPP actions. This is an abbreviation of an American description: 'Strategic litigation against public participation'.

Australian lawyers and the mass media talk of issuing stop writs or gagging writs. Supporters of the original provisions say that large trading corporations usually have other means of protecting their reputation. They have more non-litigious methods available to them because of their monetary resources, expertise and influence. They may have legal remedies other than defamation available to them, too. For instance, they may be able to sue on one or more common law torts, such as injurious falsehood. This tort includes disparagement of property, including goods or products, and title to property. I refer the member for Flinders to this action. An action in injurious falsehood requires a finding of the court either that the defendant intended to cause harm or that the harm was the natural and probable result of a false and malicious statement. In some cases, the injured party may have a course of action under the Trade Practices Act, particularly for deceptive or misleading conduct.

If the defamatory matter is not accurate and if it misleads or is likely to mislead, the defendant can be found liable. The defendant can be found liable even though there was no intention to harm another person. The conduct could include publication of defamatory matter about the plaintiff corporation's goods or services or its relations with other corporations or people, or even unauthorised publication of matters associated with the plaintiff corporation in the context of the goods or services of other people. Although this particular course of action is not available generally against the mass media because of a statutory exception, the author of the defamatory matter published by the mass media could be sued by a corporation.

Also, it seems that the media company could be sued if it knew or was reckless as to the truth of the matter published. Going back to common law torts, there may be an action in negligence in some cases or an action for one of the economic torts. One would be where the defendant intentionally interferes with the performance by a third party of a contract between the third party and the plaintiff, for example, if the plaintiff company had a contract with a musician to perform at the plaintiff's concert and the defendant made defamatory remarks about the plaintiff, intending to induce the musician not to perform. If two or more persons combined together to spread defamatory matter about the plaintiff company with the dominant object of harming the plaintiff's trade, business or other economic interests, there would be a tort of conspiracy.

Despite all the assertions and counter-assertions and differences of opinion, there seems to be more acceptance of the view that small commercial corporations, mum and dad corporations, should be able to retain the right to sue.

Ms Chapman: Hear, hear!

The Hon. M.J. ATKINSON: That is the compromise that has been accepted by state and Territory Attorneys-General and is what my amendment would do. I note the member for Bragg's approbation.

Ms CHAPMAN: I thank the Attorney for his explanation. As indicated in my second reading contribution, this was foreshadowed, and I also indicated that the opposition would support the same. It is a pity that the Attorney had not read the speech notes beforehand because he would know, as he read out the reference to the amendment proposed by the opposition, that there has been no amendment tabled by the opposition. The fact that he might have notice of such amendment is of concern, because there has been no tabled amendment to this bill by the opposition.

The Hon. M.J. Atkinson: What is that?

Ms CHAPMAN: There had been a request for a preparation of an amendment to be drafted but there has been no authority for that to be tabled. As I just indicated, that is of some concern. If the Attorney has a copy under some understanding that it has been tabled, that is not the case and I want to set the record straight in relation to that. Could the Attorney explain as to how 10 persons were struck upon in this compromise negotiation?

The Hon. M.J. ATKINSON: Ten was the number in the New South Wales legislation. I do apologise to the member for Bragg about her amendments. Amendments in her name have been circulated and there is one on my table, and that is why I assumed that there was authority to distribute them. If that is not so, then I understand the honourable member's position perfectly now.

Mr HANNA: I want to ask about the justification for allowing this exemption for companies of fewer than 10 people when the Attorney himself has made a good argument for there being no need for corporations to be able to sue for defamation and he accepts that that should be the case in terms of larger corporations.

The Hon. M.J. ATKINSON: The only thing I can say to the member for Mitchell is that it is a political compromise and I am trying to carry as many people with me as I can. Alas, I do not have the purity of the member for Mitchell. I suppose it comes from being in government.

Mr HANNA: I will accept the compliment explicit in those remarks. I will be strongly opposing this amendment but I will not ask the house to divide upon it. I will not delay the proceedings of the house any further but I do very strongly object to it.

Amendment carried.

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

Page 6, line 29—Delete 'corporation or body corporate' and substitute 'body corporate or corporation'.

This amendment is just a change in the drafting. It changes the order in which the words 'corporation' and 'body corporate' appear. Although it is trivial, I move it for the sake of maintaining uniformity of text with the model provisions.

Amendment carried.

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

Page 6, line 32—Delete 'council' and substitute 'government body'.

This amendment is to clarify the drafting of the definition of 'public body' to make sure that it covers organisations set up by local government councils.

Amendment carried; clause as amended passed.

Clause 10.

Mr HANNA: I am concerned about the situation where a person successfully sues for defamation but the judgment in the trial court goes on appeal and the person dies in between the trial judgment and the appeal. Is that person who starts the course of action while alive but who dies before the end of it able to allow his beneficiaries to take the prize?

The Hon. M.J. ATKINSON: The survival of actions would not extend to that action. It would terminate upon the death of the plaintiff.

Clause passed.

Clause 11 passed.

Clause 12.

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

Page 8, line 8—Delete 'This division applies despite' and substitute 'The provisions of this division may be used instead of'.

This is another amendment to clarify the drafting of the bill. Part 3 of the bill entitled 'Resolution of civil disputes without litigation' provides for a formal structured procedure for attempting to settle defamation claims with specified consequences if the procedure does not result in settlement. Questions were asked about how this offer of amends procedure would fit in with other long-established formal ways of attempting to settle cases such as payment into court of a sum of money and rules of court offers. This amendment is to make it clear that litigants may use these other methods instead of the offer of amends procedure under the bill.

Amendment carried.

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

Page 8, line 10—Delete 'However, nothing' and substitute 'Nothing'.

Some claims about defamation are negotiated informally and settled quickly. Often the settlement includes an apology, a correction and payment of the plaintiff's legal costs. This is the ideal situation. The uniform defamation law should not discourage this. The amendment is to make it clear that parties may still negotiate informally and that they may still choose to mediate or arbitrate their differences.

Mr HANNA: My question is a general one in relation to the clause. I want to explore a situation where one party of several sued either makes an apology or even a settlement. If the matter proceeds to trial, what does the court do in terms of reflecting the apology and contrition of one party in terms of the total damages payment? Will the legislation recently passed in respect of joint tortfeasors be relevant? Are damages going to be allocated between the various people according to who has apologised and who has not?

The Hon. M.J. ATKINSON: My information is that it would be possible for the plaintiff to continue his proceedings against the other parties. The defendant who apologised or settled would be severable from the action.

Mr HANNA: Will the Attorney clarify that? When the Attorney says that the particular defendant who has apologised would be severable, presumably that defendant would still take part in the same trial of the matter? Is the attorney suggesting that there would be different amounts of damages awarded according to who had or had not apologised?

The Hon. M.J. ATKINSON: If the apology is accepted and the matter is settled then that joint tortfeasor is released. If the apology is not accepted then there is a possibility that liability for damages of that joint tortfeasor would be reduced.

Amendment carried; clause as amended passed.

Clauses 13 to 15 passed.

Clause 16.

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

Page 10, line 16—After 'it is accepted' insert:
by notice in writing given to the aggrieved person

This amendment is intended to reduce disputes about whether an offer of amends has been withdrawn before it has been accepted. It requires withdrawal of an offer to be in writing and given to the other party.

Amendment carried; clause as amended passed.

Clauses 17 to 20 passed.

Clause 21.

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

Page 12, line 18—After 'defamation proceedings' insert:
for damages

This clause is to discourage people from relitigating several times the same (or substantially the same) defamatory matter published by the same defendant. They can only do it with leave of the court. A South Australian lawyer who is experienced in defamation litigation suggested that it would require a person to obtain the permission of the court to issue injunction proceedings to restrain republication of defamatory matter. The clause was not intended to have that effect, and the addition of the words 'for damages' is to make clear that the restriction is limited to second and subsequent claims for damages against the same defendant for the same or like matter. The courts will continue to be able to exercise their equitable jurisdiction to grant injunctions.

Mr HANNA: The Attorney would be aware that, under the current law, if a person successfully sues the publisher for defamation and gets damages and there is then a similar publication by that publisher, or even by another publisher, and the plaintiff successfully sues again, the first amount of damages should be taken into account if it is a like matter. Has that changed? Does this clause have an impact in that scenario?

The Hon. M.J. ATKINSON: There is no change.

Amendment carried.

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

Page 12, line 20—After 'defamation proceedings' insert:
for damages

This amendment is consequential upon the previous one and is for exactly the same purpose.

Amendment carried; clause as amended passed.

Clause 22.

Mr HANNA: I am concerned about areas where the general law, that is the current law, persists and runs into the defences which are stated in the statute. Are there any particular areas where there are possible contradictions between the stated defences and the defences at common law?

The Hon. M.J. ATKINSON: In so far as the statutory provision is in conflict with the common law, the statute will prevail.

Clause passed.

Clauses 23 and 24 passed.

Clause 25.

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

Page 13, lines 9 and 10—Delete 'the matter' and substitute:
it.

This amendment is a minor drafting change that I move for no other reason than to make the text of the defence of absolute privilege identical to that of other states and territories. It makes no change to the meaning of the subclause.

Amendment carried.

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

Page 13, lines 34 to 36—Delete subclause (3).

The Acting Crown Solicitor thought that this clause might extend the defence of absolute privilege to unsolicited matter sent to members of parliament and parliamentary committees. This would have brought about an intended change to the common law. Unsolicited publication of defamatory matter to a member of parliament attracts only qualified privilege or some other defence such as truth. God forbid that the material sent to us by Jack King would be given absolute privilege. Other states and territories have agreed that the subclause should be deleted.

An honourable member interjecting:

The Hon. M.J. ATKINSON: Yes, or Jim Doyle for that matter, an even better example. Of course, Jim Doyle has already been mentioned today in the obituaries. The notorious case of The Queen v Grassby is an example of a case in which absolute privilege was claimed for unsolicited matter and rejected. In that case a member of the commonwealth parliament, or perhaps a former member, sent a member of the New South Wales parliament highly defamatory matter saying that the widow and son of the anti-drug campaigner Donald Mackay and a solicitor were involved in Mr Mackay's murder, and asked the New South Wales member to read it in parliament. The court said that parliamentary privilege did not protect Mr Grassby's position. The privilege is that of a member of parliament and there is no warrant to give a comparable absolute immunity to any person who seeks to persuade a member to say something in parliament. However, I would note, sir, regarding your own circumstance that helpful material provided to a member of parliament which is welcome and which he solicits in preparation for a speech in parliament is, of course, protected, as was decided by Magistrate O'Connor in our own Magistrates Court.

Amendment carried.

Mr HANNA: This is following my previous question. Looking at the statement of the defence of absolute privilege in clause 25, I am just not sure without studying it closely the extent to which it supersedes the common law of absolute privilege, and I ask the Attorney in particular to give an example or to consider the example of proceedings of *Hansard* which us members of parliament are prone to cut and paste and send out to our electors.

The Hon. M.J. ATKINSON: The question from the member for Mitchell is the best one of the evening. I have often cogitated on this question. I think the answer is that if one is speaking in a grievance debate in parliament or debate on a bill and one defames another person, one would have absolute privilege if one published to each household to which the matter was distributed the entire debate, that is the entire grievance debate, or the entire debate, for instance, on this bill. That would attract absolute privilege. However, if one just extracted one's own speech, or a part of the debate, and then distributed it to households in one's electorate, that would attract only qualified privilege and, of course, could be defeated by malice.

Clause as amended passed.

Clause 26 passed.

Clause 27.

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

Page 15, line 27—After 'complaints about the' insert:
'actions or other'

This is an amendment to the definition of ombudsman in the defence of fair report of proceedings of public concern. Parliamentary Counsel's Committee made the change to clarify the meaning. Although I do not know what question gave rise to the change, I move this amendment for the sake of national uniformity of the text of this defence.

Amendment carried; clause as amended passed.

Clause 28 passed.

Clause 29.

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

Page 18, line 23—Delete 'proves' and substitute:
'proves that'

This is another small drafting change that I move for the sake of national uniformity of the text of a defence; this time the defence of honest opinion.

Amendment carried.

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

Page 18, lines 24 and 25—Delete 'the defamatory imputations carried by the matter of which the plaintiff complains were' and substitute:
'the matter was'

As I just mentioned, clause 29 provides for the defence of honest opinion. This defence will replace and more accurately label the common law defence of fair comment. This amendment, and two others that I will move, supersede the amendments I put on file in April. It is to improve the drafting of the defence by removing unnecessary words. Also, it is to allay fears of representatives of the mass media that New South Wales judges, upon seeing the words 'defamatory imputations carried by the matter' might lapse into old thinking from the years of New South Wales during which every imputation constituted a separate cause of action.

Amendment carried.

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

Page 18, lines 27 and 28—Delete paragraph (b)

This protects expressions of honest opinion that are genuinely held about matters of public interest in three situations: first, where the opinion was that of the defendant who was a natural person; second, where the opinion was that of the defendant's employee or agent; third, where the opinion was that of a third party as, for example, where a newspaper publishes a letter to the editor. I move this amendment for the sake of national uniformity. Paragraph (b) would have required the defendant to prove that he or she honestly held the opinion at the time of expressing it to a third person. This is the commonwealth Attorney-General's preferred position, but it is different from the common law, because the common law assumes that an opinion is honestly held unless the plaintiff proves otherwise. After this bill was introduced, states and territories decided that the common law better promoted public debate on matters of public interest. I therefore move this amendment so that this aspect of the bill reflects the common law position.

Amendment carried.

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

Page 18, lines 32 and 33—Delete 'the defamatory imputations carried by the matter of which the plaintiff complains were' and substitute:
'the matter was'

This amendment and the next one are to be part of the defence of honest opinion that covers publication of the opinions of employees and agents. It is the same as my amendment No. 14.

Amendment carried.

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

Page 18, lines 35 and 36—Delete paragraph (b).

Amendment carried.

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

Page 19, lines 2 and 3—Delete 'the defamatory imputations carried by the matter of which the plaintiff complains were' and substitute 'the matter was'.

This amendment will make the part of the defence of honest opinion that deals with the publication of the opinions of third parties correspond with the subclause as amended in accordance with my amendments Nos 14 and 16.

Amendment carried.

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

Page 19, lines 6 and 7—Delete paragraph (b).

This amendment corresponds with my amendments Nos 15 and 17, but in the context of publications of the opinion of third parties about matters of public interest.

Amendment carried.

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

Page 19, after line 9—After subclause (3) insert:

(3a) A defence established under this section is defeated if, and only if, the plaintiff proves that—

(a) in the case of a defence under subsection (1)—the opinion was not honestly held by the defendant at the time the defamatory matter was published; or

(b) in the case of a defence under subsection (2)—the defendant did not believe that the opinion was honestly held by the employee or agent at the time the defamatory matter was published; or

(c) in the case of a defence under subsection (3)—the defendant had reasonable grounds to believe that the opinion was not honestly held by the commentator at the time the defamatory matter was published.

This amendment follows on from my amendments Nos 15, 17 and 19. Instead of requiring the defendant to prove that the opinion was honestly held at the relevant time, this clause reflects the common law. A plaintiff may rebut the defence of honest opinion by proving that the defendant did not honestly hold the opinion at the time of publication. If the defendant has published an opinion of an employee or agent the plaintiff can rebut the defence by proving that the defendant did not believe the opinion was honestly held by the defendant's employee or agent. If the defendant has published an opinion of a third party, the plaintiff can rebut the defence by proving that the defendant had reasonable grounds to believe that the opinion was not honestly held by the third person at the time of publication.

Mr HANNA: Does the Attorney-General envisage that in defence pleadings in these defamation matters defendants will, out of caution, plead both the statutory and common law defences?

The Hon. M.J. ATKINSON: It is possible. We will not know until it is tested.

Mr HANNA: I also ask whether the 'proper material', which is referred to in clause 29(4), needs to be published alongside the alleged defamatory matter?

The Hon. M.J. ATKINSON: The law on fair comment is that the fair comment must be based on true facts. The common law is that if the facts are notorious or well-known then they need not be stated along with the opinion or comment. They are assumed to be known.

Mr HANNA: Does the Attorney mean that the reference to 'proper material' in clause 29(4) reflects the current common law position?

The Hon. M.J. ATKINSON: Yes, it is trying to, but it has not stated explicitly that the facts if notorious can be assumed by a reader and therefore not published along with the comment.

Amendment carried.

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

Page 19, line 16—Delete 'or the defence of fair comment at general law.'

This is a drafting correction. The statutory defence of honest opinion is intended to supersede the common law defence of fair comment. The words to be deleted were left in from a previous draft.

Amendment carried.

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

Page 19, lines 17 to 25—Delete subclauses (5) and (6) and substitute:

(5) An opinion does not cease to be based on proper material only because some of the material on which it is based is not proper material if the opinion might reasonably be based on such of the material as is proper material.

The amendment comes in two parts. The first part deletes subclause (5). This subclause is intended to put beyond doubt the predominant view of the common law in this state. The defence of fair comment, to be called 'defence of honest opinion' in the bill, is defeated if the plaintiff proves that the publication of defamatory matter was actuated by malice. There has been some recent debate about what 'malice' means in this context. There has been no ruling on this by the High Court. The majority of the states and territories were of the opinion that the law should be that the defence of honest opinion can be rebutted only by the plaintiff's proving that the opinion was not honestly held. This is reflected in the passing of my amendment No. 20. The primary aim of all the Australian attorneys-general is to make the substantive law of defamation uniform throughout Australia, and all attorneys-general have had to make some compromises to achieve that end.

The second part of the amendment is to improve the drafting by replacing existing subclause (6) with a new version. It reflects the common law position that a defence of fair comment can be made out if it can be supported by the correctly stated facts that accompany the opinion, even though there are some inaccuracies in other facts stated.

Amendment carried; clause as amended passed.

Clauses 30 and 31 passed.

Clause 32.

Mr HANNA: I ask the Attorney-General whether this clause was inserted as a kind of instruction to tame the eastern states courts in their damages awards. If not, what is the meaning of a rational relationship between the harm sustained and the amount of damages awarded?

The Hon. M.J. ATKINSON: Yes.

Clause passed.

Clauses 33 to 35 passed.

Clause 36.

Mr HANNA: I want to clarify that aggravated damages will not be possible. I am trying to cross reference to another part of the bill. I understand that aggravated damages were being done away with. If that is so, is it the case that a steadfast refusal to give an apology, even though it is a very clear-cut case of defamation, will not have any impact on the amount of damages awarded?

The Hon. M.J. ATKINSON: The member for Mitchell no doubt has in mind his former role as a plaintiff, and a successful one. I recall that in his case there was a wilful refusal to apologise, because the taxpayers were picking up the bill for the member for Bright. The member for Bright was reaching into the pockets of taxpayers and having the state pay his personal expenditure, even though the Crown Solicitor had said that his defamatory remarks were not made in the course of his ministerial duties. There was a steadfast refusal to apologise, and we are retaining aggravated damages for that purpose, although we are abolishing exemplary and punitive damages. Perhaps the member for Mitchell might tell us whether he obtained aggravated damages in those circumstances.

Clause passed.

Clause 37.

Mr HANNA: Could the Attorney-General further explain the meaning of this clause? Is it as simple as a series of actions against one defendant where there are perhaps multiple publications about different matters over a course of time rolled into one assessment of damages?

The Hon. M.J. ATKINSON: The provision reflects the common law. It is a question of whether it is the same parties: same parties, different defamations, one sum.

Clause passed.

Remaining clauses (38 to 42) passed.

Schedule.

Mr HANNA: I declare an interest at this point because I am a potential plaintiff. I want to clarify the transitional provisions. Is it the case then that with the publication of defamatory matter prior to the commencement of this act the old time limits and the old law—that is, the existing South Australian law—continue to apply?

The Hon. M.J. ATKINSON: Yes.

Schedule passed.

Title passed.

Bill reported with amendments.

The Hon. M.J. ATKINSON (Attorney-General): I move:

That this bill be now read a third time.

I thank the Liberal opposition and, in particular, the member for Bragg for their cooperation. I thank the member for Mitchell for an intelligent and incisive examination of the clauses. Certainly, his questioning caused me to reflect on the provisions of the bill.

Bill read a third time and passed.

LOCAL GOVERNMENT (FINANCIAL MANAGEMENT AND RATING) AMENDMENT BILL

In committee.

(Continued from 12 September. Page 3283.)

Clause 4 passed.

New clause 4A.

The Hon. R.J. McEWEN: I move:

Page 3, after line 17—

Insert:

4A—amendment of section 106—Certain periods of service to be regarded as continuous

Section 106(6)—delete subsection (6) and substitute:

(6) The regulations may—

(a) extend the operation of this section to other authorities or bodies; and

(b) modify the application of this section in relation to such an authority or body (in particular by requiring employment or periods of service outside the local government sector to be disregarded).

(7) In this section—

council includes a subsidiary constituted under this act.

I think that there is a total of 33 amendments, but only four have any substance; the remainder are either refinements or just a change in tone, as it were, after negotiations with the LGA on behalf of the sector. I must say that those negotiations have been particularly constructive, positive and mature. I am giving a brief explanation as to where we might travel this evening. New clause 4A amends section 106 which, in effect, redresses an anomaly that was created once Maxima Training extended its charter beyond what it originally did when it was the Local Government Group Training Scheme.

The arrangement that existed at that time, which reflected the rights of individuals as they moved from one local government entity to another, no longer made sense when Maxima Training employed trainees beyond local government and left them at a disadvantage, viz-a-viz other group training organisations. This amendment redresses that deficiency, which was simply due to the changing nature not only of what was the Local Government Group Training Scheme but also the nature of the business which extended beyond simply training within the sector.

Dr McFETRIDGE: I appreciated this afternoon's briefings on the government's 34 amendments. At this stage I indicate that, while there are a few points of clarification, the opposition will not be opposing any of the amendments. As they have not yet been to our party room, I should inform the committee that some changes may be introduced in the other place. The only amendment introduced by the opposition occurred in Mount Gambier on 3 May. That has been replaced by a government amendment which, as I say, has not been to our joint party room.

It does achieve much of what we wanted any way but, because of the changes that have occurred since Mount Gambier (particularly the discussions with the Local Government Association's independent inquiry into the financial sustainability of local government), discussions have been undertaken between the Local Government Association and the Office of Local Government on the auditing of councils. We have also had the federal government's response to the Hawker report, the independent inquiry into the financing of local government through a fair share of rates and taxes. This has changed the picture a little bit so, while we will proceed with as much haste as possible in going through the amendments tonight, we should be aware that there may be some further changes in the upper house.

A moment ago I pointed to the independent inquiry into the financial sustainability of local government and, for the record, I will correct something I said last night in the house so it is not seen as inflammatory. I said last night that 26 of South Australia's 68 councils are grossly unsustainable. I should quote from the report. It states:

Based on the advice we have received from our independent advisers of the current annual financial performance, the position of 26 of South Australia's 68 councils appears unsustainable over the medium to long term.

That is not much of a better picture but is not quite as inflammatory as it may have been. Having said that, we can push on. As I say, I will not proceed with amendment 87(1) on behalf of the opposition; it has been replaced by the government's amendment No. 9.

New clause inserted.

Clause 5.

The Hon. R.J. McEWEN: I move:

Page 4, line 5—After 'its community' insert:
to the extent that is reasonable taking into account the availability of appropriate and accurate data

This is one of the 35 amendments suggested by the Local Government Association in April this year in response to the bill. Section 122 of the act deals with strategic management plans. Clause 5 substantially amends section 122. Clause 5(2) proposes to insert a new subsection (ab) in section 122. This subsection requires the council to include in strategic management plans assessment of several matters. One of these matters is (iv), anticipated change in council's area with respect to real property developments and demographic characteristics of the community. The Local Government Association has suggested, and the government has agreed, that this requirement be qualified by the words that are proposed in this amendment.

These provisions are not intended to place any obligation on councils to be researchers to undertake the type of study to collect the data that is usually collected by the Australian Bureau of Statistics. Therefore this amendment provides that the anticipated changes that must be taken into account in developing strategic management plans are only to the extent that is reasonable given the availability of accurate data.

Amendment carried.

The Hon. R.J. McEWEN: I move:

Page 4, lines 16 and 17—Delete subsection (6)

I am advised by my very professional and thorough staff within the department that I need an amendment No. 2A—page 4, line 7, proposed section 12(1)(i). The LGA has suggested deletion of this provision as we consider the powers to address or include any other matter prescribed by regulation in relation to strategic management plans, which already exist in the act (see 122(2)(b)). We are always open to suggestions and negotiations.

Obviously, what complicates the matter is that we are dealing with the template which governs another sphere of government, and so, beyond any other requirement to consult, we must engage the LGA continuously on this matter, which is why I also acknowledge the observations made by the shadow minister; that is, we may get this bill out of this place with little amendment beyond what we have in front of us tonight, but there will be further discussions with the government, the opposition and the LGA between the houses. I am not arguing that what leaves this place from the government or the opposition's point of view will be the final version of the bill.

Dr McFETRIDGE: Deleting this section does not cause us any dramas other than it poses the question about addressing or including any other matters prescribed by regulation, and the minister then talked about consulting with local government. The bill has two different sections about making regulations in the Local Government Act 1999. Section 156(14) provides that a regulation cannot be made for the purposes of this section, except after consultation with the LGA. However, section 303(9) provides that the minister should, so far as is reasonably practicable, consult with the LGA before regulation is made under this act. Which one of these is right? I would have thought that section 156(14) is the one that we should be considering when we are dealing with all the other amendments, as it deals with the making of regulations and it is used in many other pieces of legislation which we see in this place. I would have thought that for good state-local government relations section 156(14) would be the one we followed and section 303(9), which leaves it open as to whether or not to negotiate, should be perhaps looked at and removed from the act.

The Hon. R.J. McEWEN: Mr Chairman, if you were not confused before, no doubt you are now.

The CHAIRMAN: I am fully aware.

The Hon. R.J. McEWEN: Mr Chairman, you are fully aware that we are nowhere near what we are dealing with at the moment. However, we are certainly discussing what might, on the surface, seem to be an inconsistency in the bill. One of them happens to be something which is inherited and goes as far as you would want to go and, in some cases, beyond what some people would argue as the need to specify in a bill the requirement to negotiate. I am not uncomfortable with section 156(14) in terms of the history of that, but I did not see the necessity automatically to repeat that elsewhere in the bill. This sits comfortably, anyway, underneath some broader architecture, which is the state-local government relations agreement and which reflects the true relationship about not only what we do within a bill but about what we do before a bill even arrives in this place.

With the present government, sitting underneath it is another template which is an even broader pro forma about how we negotiate and how we disengage, if we need to; and how that sector in its own right then might negotiate beyond the government with oppositions and elsewhere. I am not uncomfortable with what on the surface some people see as a contradiction. I think we are expressing a relationship which is about respectfully negotiating where we need to. I might add that there is a point where the government needs to take some control in its own right. There is a point where, yes, you may have consulted, but a decision needs to be made and you might have to disagree. I am not uncomfortable with where it all sits at the moment.

Amendment carried.

The Hon. R.J. McEWEN: I move:

Page 5, lines 7 and 8—Delete 'on at least one occasion between' and substitute:
within two years after

This amendment is another one of the 35 amendments suggested by the Local Government Association in April. This amendment deals with clause 5(8), which replaces section 122(3) and (4) in the act. In proposing new section 122(4) the bill provides that a council may review its strategic management plans at any time, but at the very least must undertake a comprehensive review on at least one occasion between each general election of the council.

Amendment carried.

The Hon. R.J. McEWEN: I move:

Page 5, after line 17—Insert:
(9) Section 122—after subsection (7) insert:
(8) A council must, for the purposes of this section, specifically declare which plans will constitute the strategic management plans of the council.

This is another of the 35 amendments suggested by the LGA, which again reinforces the very constructive and positive relationship we have with the leadership team on behalf of its 68 councils. Section 122(1) leaves room for considerable discretion by councils and between different councils on the form of their respective strategic management plans. Although each council may be required to have within its strategic management plan elements that include a long-term financial plan and a long-term infrastructure and management

plan, there is no requirement that these other elements must form part of a single document.

Amendment carried; clause as amended passed.

Clause 6.

The Hon. R.J. McEWEN: I move:

Page 7, line 6—After 'awareness of' insert:
the nature of its services and

This is another of the 35 amendments. Clause 6 replaces the entire section 123 of the act, which section deals with only the council's budget. Proposed new section 123 is headed 'Annual business plans and budgets.' Proposed section 123(8) requires a council to prepare a summary of its annual business plan and to send that summary to each ratepayer with the first rate notice of each financial year. The purpose of this, as proposed section 123(8) explains, is to promote public awareness of a council's rating and financial management policies on which a council would already have undertaken public consultation. It is filling in the loop and saying, 'We have discussed this with you, and now we are just reminding you that this is where we are up to,' and to do this with the first of the notices is probably a cost effective way of doing it.

Dr McFETRIDGE: We are not opposing this amendment. However, there is some concern about how quickly the business plans, the strategic plans, the asset management plans and the infrastructure plans will all have to come into operation; perhaps it will be within a couple of years. I know that the LGA and some councils have expressed to me concern about the need to look at this issue, but I do not know whether now or later is the time to discuss this.

The Hon. R.J. McEWEN: There will be an exchange of letters with local government in relation to timing. It must be done in a timely manner but, equally, the time line must be achievable. We are making a clear statement that councils need to engage more at the front end of the process about what they want money for and where they are going in their life—for an obvious reason, that is, it is more palatable then for the ratepayers to understand why they are being asked to contribute. There may be some challenges, and we are certainly exchanging letters with local government about this matter.

Amendment carried.

The Hon. R.J. McEWEN: I move:

Page 7, line 9—After 'the summary' insert:
of the annual business plan

This is a technical amendment clarifying that the summary that is to accompany the rates notice—is in fact, a summary of the annual business plan and not necessarily a summary of the council's budget.

Amendment carried.

The Hon. R.J. McEWEN: I move:

Page 7, line 17—After 'the summary' insert:
of the annual business plan

This amends section 123(8). Although this amendment was not specifically requested by the LGA, it deals with the same possible ambiguity as the previous amendment. It refers to a copy of a summary that must be made available without charge at the principal office of the council. As with the previous amendment, it clarifies that the document that must be made available is a summary of the annual business plan and not necessarily a summary of the council's budget.

Amendment carried.

The Hon. R.J. McEWEN: I move:

Page 7, after line 25—Insert:

(9a) However, in any event, the summary of the annual business plan must include an assessment of the extent to which the council's objectives for the previous financial year have been attained (taking into account the provisions of the annual business plan for that financial year).

This is another of the 35 amendments. The LGA has suggested and the government has agreed that a summary of the annual business plan to be sent to all ratepayers must incorporate an assessment of the extent to which the council's objectives for the previous financial year have been attained.

The Hon. R.J. McEWEN: Again, I think in reporting to the elected constituency, it is important to report not only in terms of where you go but the journey thus far. If there has been any variation to that, which is understandable from time to time, that needs to be reported.

Amendment carried; clause as amended passed.

Clause 7 passed.

New clauses 7A and 7B.

The Hon. R.J. McEWEN: I move:

New clauses, page 7, after line 37—Insert:

7A—Amendment of section 126—Audit committee

(1) Section 126(1)—delete 'may' and substitute 'must'.

(2) Section 126(2) and (3)—delete subsections (2) and (3) and substitute:

(2) The membership of an audit committee—

(a) may include persons who are not members of the council; and

(b) may not include an employee of the council (although an employee may attend a meeting of the committee if appropriate); and

(c) may include, or be comprised of, members of an audit committee for another council; and

(d) must otherwise be determined in accordance with the requirements of the regulations.

(3) Section 126(4)—after paragraph (a) insert:

(ab) proposing, and providing information relevant to, a review of the council's strategic management plans or annual business plan;

(ac) proposing, and reviewing, the exercise of powers under section 130A; and

(ad) if the council has exempted a subsidiary from the requirement to have an audit committee, the functions that would, apart from the exemption, have been performed by the subsidiaries audit committee; and

7B—Amendment of section 128—The auditor

(1) Section 128—after subsection (4) insert:

(4a) The term of appointment of an auditor must not exceed five years.

(2) Section 128(5)(e)—delete 'and the auditor is not reappointed'

(3) Section 128(6) and (7)—delete subsections (6) and (7) and substitute:

(6) if the office of auditor of a council becomes vacant, the person who held the office may not be reappointed to the office of auditor of the council unless at lease 5 years have passed since he or she last held the office.

I will just deal with the preamble of it and we will see whether the shadow minister is comfortable with that. The Local Government Act 1999 has been in operation since 1 January 2000. In recent months the Office of local Government and the Local Government Association undertook a joint review of the provisions of the act that deal with the external review of councils' financial administration. That review is not yet complete. I will consider the report when it is available, but I understand that the report may recommend the development of a financial framework or a standard to support local government audits and to achieve some consistency across councils in financial reporting. That is consistent with what the shadow minister was proposing in terms of his amendment.

These amendments do not pre-empt the LGA report but rather lay the ground work to enable the relevant framework and standards to be incorporated into regulations once the report's recommendations have been considered. These amendments are also consistent with the recommendation recently made to the LGA by the independent inquiry into the financial sustainability of local government.

I indicated in my closing remarks in the second reading debate that I would be cognisant of the LGA's response to its independent inquiry either if the opportunity presents itself as part of the passage of this bill or, more likely, as further amendments to the act, because I see the act as a work in progress and there will be continuous improvement to the act as we explore the relationship between the government and the LGA on behalf of its 68 councils.

Dr McFETRIDGE: The opposition will not proceed with its amendment, which was originally drawn up back in May with the aim to try to bring a more forensic audit into the examination of local government financial management. Because this has been a bit of a moving feast, with the independent inquiry into financial sustainability, the general public discussions on rates and the conduct of local government, our amendment is no longer suitable for the present aims. The amendment that has been moved by the government to ensure that all councils do have an audit committee (at the moment they may have, but under this bill they must have) is something the opposition has not discussed in the joint party room. However, I am quietly confident, as the shadow minister, that the party room will agree to this. But, as the minister has said, there will be room for further amendments later on.

As I said in my second reading speech, there has been considerable concern out there about the financial management of councils. Certainly, there is anecdotal evidence of some decisions that may have been looked at in a different light had a more fine toothcomb financial audit been carried out. Having said that, I would hope that these financial plans, strategic management plans and annual business plans will help solve some of those problems as well. Local government is trying to do a good job generally, and I think that at this stage the audit committees will more than satisfy the opposition.

The Hon. R.J. McEWEN: Given that the shadow minister has indicated that his support is conditional, because I respect that he, in turn, has not taken this to his party room, I will put on the record just a few observations about the audit committees that are to be established. Equally, I acknowledge that the suggestion originally came from the shadow minister. It was only further development of his amendment that has got us to this point. The government recognises that it will take some time for councils to establish audit committees and for the committees to develop the necessary expertise to fulfil their functions within councils.

Committee members do not need to be council members. In fact, the committee would benefit from having as its members one or more persons from outside the council who have the necessary expertise. In smaller councils, particularly rural councils, there may be difficulty finding those with the necessary expertise who are available to sit on an audit committee. Therefore, new subsection 7A(2) recognises that a council may share its audit committee, or members of its audit committee, with another council. In fact, the same persons may constitute the committee of two or more councils, at the discretion of each council.

New subsection 7A(2) also provides room for regulations to be made about the composition of the audit committees. The reason for this is that the government intends to consult further with the opposition and the LGA about how audit committees are to be structured. In some circumstances, I might see having these committees available to councils almost at a regional level. So, we are quite open and flexible about the nature of the membership and even the potential for councils to share these committees, keeping in mind that we are also talking about a framework that will be used. I think that, if we went down that path, we would lead the nation in terms of this role of the elected members of council using an audit committee, participating in it and responding to its advice.

New 7A and 7B clauses inserted.

Clause 8.

The Hon. R.J. McEWEN: I move:

Page 8, line 5—After 'that' insert 'a copy is provided to the chief executive officer, and that'

Section 129 of the act deals with the conduct of a council's annual audit. This clause proposes to insert new subsection 129(5a) into the act to provide that the auditor must provide any reports required under section 129 to the principal member of the council, who must in turn ensure that the copies are made available to other members of the council. The LGA has suggested, and the government has agreed, that the auditor should also provide copies of any report to the chief executive of the council.

Amendment carried.

The Hon. R.J. McEWEN: I move:

Page 8, line 7—Delete "(if applicable)"

This amendment is consequential upon amendment no.9 and the new subclause 7A(1). The bill provides that an auditor's reports must be provided to the council's audit committee, if the council has one. Because amendment no. 9 standing in my name has required audit committees to become compulsory, the words 'if applicable' are no longer relevant.

Amendment carried; clause as amended passed.

Clause 9 passed.

Clause 10.

The Hon. R.J. McEWEN: I move:

Page 8, line 26—After "division 4" insert:
and that is considered by the council to be of such significance as to justify an examination under this section.

This amendment has been proposed after significant discussions with the LGA. Proposed new subsection 130A deals with an efficiency and economy review separate and distinct from the council's annual audit. The government believes that each council already has the power to call for efficiency and economy audits of any aspect of its operations. However, this view is not shared throughout the local government sector so the government has sought to put the matter beyond doubt by making this power explicit in a proposed new section 130A. This entire clause was initially opposed by the LGA, which expressed concern that the power could be misused or overused by a group of councillors who wanted to focus on one or more relatively minor matters.

Efficiency and economy reviews are generally intended to focus on the broad picture of how an organisation manages or uses its resources across an entire program of works or activities. Therefore, in consultation with the LGA the government has proposed an amendment that does not limit a council's power. Rather, the amendment provides that the

council must exercise this power when a matter is of such significance as to justify an examination under this section.

Amendment carried.

The Hon. R.J. McEWEN: I move:

Page 8, after line 31—insert:

(2a) An examination under this section—

(a) is not to operate or apply so as to limit the role or functions of a council under this or any other act, or the lawful role or functions of any member of a council; and

(b) is to be undertaken in such manner as the person conducting the examination thinks fit and without undue influence from a member of the council or the chief executive of the council.

Like the previous amendment, this has been proposed after significant discussions with my friends and colleagues in the Local Government Association. It deals with two matters. First, proposed paragraph (2a)(a) clarifies that the power proposed in new section 130A does not limit existing powers of a council or a councillor. Secondly, it provides the person completing an efficiency and economy review with the autonomy required to do the job required by the council. This is consistent with Australian Standards dealing with auditors. The auditing and assurance standard AUS02 provides in paragraph 07, under the heading 'Scope of an audit' that procedures required to conduct an audit in accordance with AUSs should be determined by the auditor having regard to the requirements of the AUSs legislation, regulations and, where appropriate, the terms of the audit engagement and reporting requirements.

The intent of both the AUS standard and the amendment to this bill is to provide auditors or those engaged in efficiency and economy reviews with the necessary autonomy to do the task properly. After a council had requested a certain review, it would be inappropriate for either elected members or the chief executive to try to either broaden or narrow the focus of the review. That would obviously be a negative in terms of the intent of the audit. Once an audit has been commenced, obviously it must be done at arm's length, and I believe that is what this achieves.

Amendment carried.

The Hon. R.J. McEWEN: I move:

Page 9, line 3—After "that" insert:
a copy is provided to the chief executive officer, and that

This is another of the 35 amendments suggested by the LGA in April. Although the LGA originally proposed this clause in its entirety, the LGA said that if the clause were retained it should be amended to ensure that reports sought under this clause must be provided not only to the principal member of the council but also to the chief executive.

Dr McFETRIDGE: I understand that this is one amendment with which the LGA still has some concerns. In some correspondence given to me today, the LGA said that it is still considering the implication of this amendment and will provide advice shortly. I understand that concern is about the timing of the report. I am not sure where it wants to go, but maybe we will deal with that one between houses and sort it out in the other place.

The Hon. R.J. McEWEN: As much as I respect those comments, I do not think they are in relation to amendment No. 14.

Amendment carried.

The Hon. R.J. McEWEN: I move:

Page 9, after line 5—Delete '(if applicable)'

This is a consequential amendment upon amendment No. 9 and new subclause 7A(1).

Amendment carried.

The Hon. R.J. McEWEN: I move:

Page 9, after line 5—After subsection (4) insert:

(5) The report on an examination must be formally received by the council at the next meeting of the council.

(6) The report on an examination must be kept confidential until it is received at the next meeting of the council or, if the council so resolves at that meeting, until a later date specified by the council (being not later than 60 days after the date of the meeting).

This amends clause 10. Like the previous amendment, this amendment has been proposed after significant discussions with the LGA. It provides an efficiency economy audit once provided to the CEO and the principal member and distributed to other elected members is to be treated as confidential until the next council meeting when it must be tabled. The council may resolve at that meeting to keep the report confidential for a specific period, not to exceed 60 days. This deals with two separate matters. First, it is a requirement that the report requested by the council be received by the council and, obviously, you need to do that in a formal sense in a meeting. This will ensure that it is tabled at the next meeting and cannot be ignored. Second, it prohibits councils leaking the report to the media before the council's CEO has a chance to consider it and formulate a response—not that I would expect an elected member amongst any of my 68 councils to leak anything.

Amendment carried; clause as amended passed.

Clauses 11 to 15 passed.

Clause 16.

The Hon. R.J. McEWEN: I move:

Page 10, line 27—Delete 'council ratepayer' and substitute:
principal ratepayer

This amends new subsection 153(3). This is another of the 35 amendments suggested by the Local Government Association. It is a drafting matter. The bill incorrectly used the term 'council ratepayer'. In the context of subclause 16(2), this might refer to a tenant who is a ratepayer in respect of another property. This subclause is intended to refer only to the principal place of residence of a principal ratepayer.

Amendment carried.

The Hon. R.J. McEWEN: I move:

Page 10, line 32—After 'in order' insert:
for a ratepayer

This amends new subsection 153(4). This is another of the 35 amendments suggested by the Local Government Association in April in response to the bill. It is a drafting matter. The paragraph as drafted refers to conditions that may apply in order to qualify for a benefit. This inclusion of the words 'for a ratepayer' makes the meaning of the paragraph clearer.

Amendment carried.

The Hon. R.J. McEWEN: I move:

Page 10, line 36—After 'development' insert:
(including by virtue of a change in use)

This is another of the 35 amendments suggested by the Local Government Association. Proposed new paragraph 153(4)(b) provides that when a council is considering limitations on a maximum rate increase to apply to a ratepayer's principal place of residence, it is entitled to take into account any development that might have been undertaken on the land. The LGA sought an amendment to ensure that development in this context included a change in the use of land. I am quite happy with the amendment.

Amendment carried.

The Hon. R.J. McEWEN: I move:

Page 10, line 36—After 'undertaken' insert:
(or occurred)

This amendment is consequential upon the previous one. The words '(or occurred)' refer to development that has occurred by virtue of a change in the use of the land.

Amendment carried; clause as amended passed.

Clause 17 passed.

Clause 18.

The Hon. R.J. McEWEN: I move:

Page 11, lines 29 to 31—Delete subclause (6) and substitute:
(6) Section 155(8)—delete subsection (8) and substitute:
(8) An annual service charge may be based on—
(a) the nature of the service; or
(b) the level of usage of the service; or
(c) any factor that applies under subsection (3); or
(d) a combination of two or more factors under the preceding paragraphs.

This amendment replaces subsection 155(8); it replaces subclause 18(6). This is another of the 35 amendments suggested by the Local Government Association. Section 155 and the amendments to clause 18 deal with service rates and service charges. Service, in this context, can refer to collection and disposal of waste—not only rubbish bins, but also septic tanks, STEDS schemes, etc., and the provision of water and television retransmission that is carried out by some rural councils. There is a distinction in section 155 between a service rate that may be based on the value of the land in the same way as the usual council rates and an annual service charge that may instead be based on the nature of the service or the level of the use of the service. It is a matter for councils to decide which charging option is the most appropriate. This amendment deals with the flexibility available to the council in setting an annual service charge. It provides that the option of setting a service charge includes all the options available under subsection 155(3) for the setting of the service rate, as well as some additional options. Subject to consultation with the LGA, the government intends to examine regulations under subsection 155(3) that deal with charging for services.

There is a STEDS advisory committee examining how local government might charge for provision of septic tank waste disposal schemes to ensure that their schemes are financially sustainable. In the meantime, this amendment deals with a request from the LGA to ensure that any new flexibility that might be offered by regulations under subsection 155(3) will also be applicable to annual service charges under subsection 155(8).

Dr McFETRIDGE: The opposition is not opposing this amendment at this stage—and I do not think we will in the future, either. We are seeing more and more of a need for councils to be able to impose user-pays charges—or service charges, as they are called here—and it was good to see that the minister raised the issue of STEDS, because I know that there are some concerns over the pricing of service charges for STEDS in some areas of the state. It will be interesting to see the outcome of the negotiations between local and state government on that issue.

Amendment carried; clause as amended passed.

Clause 19.

The Hon. R.J. McEWEN: I move:

Page 15, lines 4 to 6—
Delete 'Subject to complying with the requirements of this section, a person is entitled to a postponement of the payment of rates under this section if—' and substitute:
A person may apply to a council for a postponement of the payment of the prescribed proportion of rates for the current or a future financial year if—

This amendment replaces subsection 156(15) and subclause 19(5). This is another of the 35 amendments suggested by the LGA and is consequential upon the previous amendment. Instead of just deleting subsection 156(15), as existing subclause 19(5) does, it also replaces subsection 156(15). The proposed new subsection 156(15) ensures restriction on differential rates. General rates that apply under section 156 cannot be used to limit the council's flexibility in setting service rates under section 155.

Amendment carried; clause as amended passed.

Clauses 20 to 24 passed.

Progress reported; committee to sit again.

ADJOURNMENT

At 9.59 p.m. the house adjourned until Wednesday 14 September at 2 p.m.