HOUSE OF ASSEMBLY

Wednesday 21 June 2006

The SPEAKER (Hon. J.J. Snelling) took the chair at 2 p.m. and read prayers.

VISITORS TO PARLIAMENT

The SPEAKER: I draw to the attention of honourable members the presence in the chamber today of students from Karkoo Primary School, who are guests of the member for Flinders; students from Christies Beach High School and Southern Vocational College, who are guests of the member for Reynell; and students from Mary MacKillop College, who are guests of the member for Norwood.

LAND TAX

A petition signed by 52 residents of South Australia, requesting the house to urge the government to introduce legislation to substantially raise the land tax threshold; to allow extra time for land tax payments and payments by instalments; to reduce the effect of bracket-creep and to review the effects of the tax on self-funded retirees, was resented by Ms Chapman.

Petition received.

UNIVERSITY CITY

The Hon. M.D. RANN (Premier): I seek leave to make a ministerial statement on the state government's vision for Adelaide to become a world class university city.

Leave granted.

The Hon. M.D. RANN: During our first term, the state government adopted a bold vision to establish Australia's first foreign university here in Adelaide. We have delivered on that vision with the establishment of a campus of the prestigious US institution, Carnegie Mellon University, which I was pleased to open late last month. After intensive planning and effort, students are now attending classes, with the university offering three US post-graduate degrees: a Master of Entertainment Technology; a Master of Science in Public Policy and Management; and a Master of Science in Information Technology.

Carnegie Mellon is a world leader in such areas as information technology, computer science, defence systems and technology, robotics, and media and entertainment, and I am confident that over time the university will extend its range of course offerings. The successful establishment of Carnegie Mellon in Adelaide has been a cooperative effort with the commonwealth government, and I pay particular tribute to the Foreign Minister, Alexander Downer, and former and present higher education ministers, Brendan Nelson and Julie Bishop.

Earlier this month, I met with Alexander Downer, Brendan Nelson and Julie Bishop to discuss our goal of establishing a branch of Carnegie Mellon's Software Engineering Institute in Adelaide. The SEI is a world leader in defence technology, and its presence would cement Adelaide not only as the defence capital of Australia, but also as a centre of international excellence in defence systems. I think that people would be aware that SEI is funded about 50 per cent by the US Department of Defence, about 25 per cent by Homeland Security, and 25 per cent (from memory, which is not always accurate) by various major defence companies.

A few weeks ago during a visit to the United Kingdom, I also signed a Head of Agreement with Cranfield University, which is the academic provider and partner to the Defence Academy of the United Kingdom. Cranfield is pre-eminent in Europe as a defence technology institution. It is number one in defence training in the UK, having won the UK Defence Academy training contract since 1984. The heads of agreement commits the government and Cranfield to work on a pre-feasibility study on the establishment of a presence here. I want all of our existing universities to work with Cranfield to explore the scope for collaboration. The University of Adelaide has links with Cranfield and, in particular, I commend the University of South Australia, which is working with us to attract Cranfield to deliver its defence-related programs in South Australia. Obviously, that is critically important for what is happening in the defence industry with the air warfare destroyers and a range of other major projects.

My ambition for Adelaide to be an international education destination does not end here. I want Adelaide to be recognised internationally as Australia's university city. I believe that another three or four universities, including Cranfield, should be operating in South Australia over the next four or five years. The government has been talking to another US university and two other British institutions. To help ensure this, state cabinet has commissioned the University City Pre-feasibility Study, which will be conducted by the university city project team within the Department of the Premier and Cabinet and will be led by the Agent-General's Office in London. Over the next few months the team will investigate the next steps we must take to realise our goal.

South Australia's Strategic Plan sets a target of doubling our share of overseas students within 10 years, and I believe we are well on target to achieve this. Education is now South Australia's fifth largest export, supporting two and a half thousand local jobs. Our foreign student numbers have been growing at twice the national average for the past three years. In 1994, we had fewer than 5 000 overseas students in South Australia. By the year 2000, the number was still only about 6 000 students. There had been very little take up between 1994 and 2000, but, by concerted effort, the number of overseas students studying in Adelaide grew to about 18 000 last year—so, from 6 000 up to 18 000. After years of languishing, things are now happening, with further growth to come. The number of Chinese students in Adelaide has grown to 5 400, while the number of Indian students has risen over the past year by 67 per cent to 1 460.

The attraction of new players to Adelaide will open up opportunities for partnering with our fine existing universities and to develop new areas of excellence. Flinders University has developed formal links with Carnegie Mellon, and I look forward to seeing the results of this collaboration. The importance of Adelaide becoming a university city is not merely measured by the number of overseas students but also by its contribution to our broader economy and society, and I have just mentioned, of course, the defence industry.

University City is one of the keys to achieving many of the targets in South Australia's Strategic Plan, from growing prosperity to attaining sustainability to fostering creativity and expanding opportunity. Education is central to maintaining our prosperity and ensuring we have the capacity to capitalise fully on opportunities. It is central also to our potential to be a truly inclusive society. I am determined that

Adelaide will become Australia's internationally recognised university city.

PAPERS TABLED

The following papers were laid on the table:

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

Development Act Amendment Plan Report—Naracoorte Lucindale Council—Effluent Disposal Waste Control System

By the Minister for Health (Hon.J.D. Hill)—

Charitable Funds, Commissioners of—Report 2004-05
Medical Board of South Australia—Report 2004-05

By the Minister for Volunteers (Hon. J.M. Rankine)—

'Creating the Future Together—A Partnership between Premier and Volunteer Sector'—Report June 2006.

LEGISLATIVE REVIEW COMMITTEE

Mrs GERAGHTY (Torrens): I bring up the sixth report of the committee.

Report received.

Mrs GERAGHTY: In accordance with the preceding report, I advise that I no longer wish to proceed with Private Members Business, Bills/Committees/Regulations, Notice of Motion No. 7.

Mrs GERAGHTY: I bring up the seventh report of the committee.

Report received and read.

QUESTION TIME

PUBLIC SECTOR EMPLOYMENT

The Hon. I.F. EVANS (Leader of the Opposition): My question is to the Treasurer. Has cabinet decided to introduce a full time equivalent (FTE) cap for each public sector agency?

The Hon. K.O. FOLEY (Treasurer): Not at this stage. We have decided that we want to get a decent piece of work done within government to get a census of employment establishment numbers within government agencies. Some people have assumed that that is a cap. It may lead to a cap, I might add, and it is a bit odd from an opposition who criticised the government during the election campaign because we employed too many public servants—

Ms Chapman interjecting:

The Hon. K.O. FOLEY: Sorry? I have to say that one of the very difficult tasks—and it occurred when the Liberals were last in office, and it has occurred time immemorial in terms of governments—is getting an exact number of public servants in order to get an agreed number between the Auditor-General's number and the Office of the Commissioner for Public Employment. But since the election, cabinet has agreed that we will do a census so as to take the number of public servants currently employed on a given day and do a census across government. Some people have interpreted that as a cap. It may lead to a cap. I am somewhat attracted to the notion of a cap, I have to be honest, but we haven't as yet made a formal decision on that. Certainly, work is underway that may well lead to a cap.

FOSTER CARE

Ms SIMMONS (Morialta): Can the Minister for Families and Communities inform the house about what the state government is doing to support foster care in South Australia?

The Hon. J.W. WEATHERILL (Minister for Families and Communities): I thank the honourable member for her question. This government takes the question of foster care very seriously, and we value very highly those people who open their homes to the most vulnerable people in our community. It is essentially a volunteer style of effort. They receive some money to offset some of the additional expenses that they incur for this, in some ways, onerous task. It is essentially an act of goodwill on behalf of the state, and we thank them for that role.

It is crucial to respond to some of the issues that have been raised in today's newspaper about the state of foster care in South Australia because a number of misleading remarks have been made in that material. First, there seems to be a contention that there has been a cut in funding to child protection. That is simply untrue. Under this government the year-on-year expenditure and funding to child protection has actually increased. The budget this financial year is $51.5 million, and that is up from $29 million when those opposite were in government. That is an increase of 75 per cent (the Treasurer blanches) on our budget when we came into office.

At the same time, and in relation to foster carers, we now have 1 055 South Australians who open their homes to these most vulnerable children—an increase of 11 per cent on the numbers when those opposite were last in office. We have to do more—indeed, we have acknowledged that more needs to be done to support foster carers—because we are finding that two things are happening. First, the number of children coming into our care is growing at an alarming rate. In fact, the number of children in our care is currently 1 434, which is up 26 per cent from 2001-02. So, there is a growing number of young people coming into our care, and the complexity of the issues that confront them and the behaviours that they engage in has also escalated.

We have done a number of things. We have introduced a system to actively recruit additional foster carers and there has been some measure of success there, although we could always do with more. We have also introduced a $75 one-off payment to help with initial caring responsibilities when young people come into care, especially on an emergency basis. We have increased payments to foster parents and, for the first time ever, we have indexed those payments—foster carers were left to languish under the previous government but we now index them year on year. We have also introduced a charter for the rights of children and young people in care, and have introduced a rapid response framework to ensure that services can be provided to young people in care so that they go to the front of every government queue.

There are two other things that I need to address in this story. The first is the contention that the use of non-government agencies to assist in the care of young people is somehow inappropriate. We know that in some circumstances there is an urgent need to provide care for young people. It may be 2 a.m. and a placement may have broken down because of the behaviour of a child, or it may be that we have had to urgently remove a child from a situation of risk and need to find a foster carer at very short notice. Sometimes we cannot do that. A lot of times people are prepared to open up

their homes at 2 a.m. but sometimes they cannot, and we need to find alternative arrangements. We do have the 10 new transitional care houses where we can take these young people, government-run homes, and we have also negotiated additional arrangements with respected non-government organisations such as the Salvation Army, and others, who have expanded the number of places they can provide to us. However, on occasions we are obliged to use motels and we have properly qualified, paid staff who assist in that role.

Another issue that was raised in very large headlines was about taxis, and somehow there was a link drawn between those two things. At the outset I have to say that it is almost never the case that taxis are used to transport children in those emergency situations. They are almost never used in those circumstances but taxis are, of course, used in circumstances (especially for an older child) where perhaps a foster carer may be unable to get that child to their particular school, and where there may not be a paid staff member or volunteer available. In those cases it is entirely appropriate that we use taxis. Indeed, we work with the taxi industry which, of course, has rigorous standards that it enforces upon its drivers both in terms of police checks and standards of conduct, where there is any apprehension of misbehaviour.

In addition to that, our own staff seeks to negotiate special arrangements with taxi companies, because there is always a premium in ensuring that we have a same driver, if there is a driver to be used for a particular family, so that there is a degree of familiarity between that driver and the young person. Of course, we sometimes make arrangements with hire car drivers, where those settled arrangements can be made, and they tend to be preferred because they also tend to be somewhat cheaper. At all times, what is foremost in our mind is the protection of the young people in our care.

PUBLIC SECTOR EMPLOYMENT

The Hon. I.F. EVANS (Leader of the Opposition): Why did the Treasurer tell ABC Radio on 24 May that there was no freeze across the public service sector, when cabinet had already decided to introduce a full-time equivalent cap for each agency? On 24 May the Treasurer told ABC Radio:

> There is no jobs freeze across the public sector.

The journalist asked:

> So, there is no freeze on employment contracts?

The Treasurer said:

> No, there is not.

This statement to the media and the public was made two days after cabinet had made the decision to introduce a cap. The opposition has a copy of the leaked memo from the Under Treasurer to all chief executives. The memo requests the numbers of full-time equivalent staff in each agency as of 22 May 2006. The memo states that this data will be used to set a cap for each agency and that Treasury and Finance will monitor the ongoing compliance with the full-time equivalent caps.

The Hon. K.O. FOLEY (Treasurer): Hello: a cap is one thing, a freeze is another.

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: I will explain how there is a difference, bearing in mind that my earlier answer was that I have made no decision on either. A cap is a ceiling on the number of public servants employed in a government department.

Members interjecting:

The Hon. K.O. FOLEY: Just hear me out. If you want to hear the answer, I am happy to give it to you, because you are making idiots of yourselves.

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: I am happy to be heckled, sir, but I will sit down if they want to heckle me.

The SPEAKER: Order! Members on my left will come to order.

The Hon. K.O. FOLEY: Thank you. The way the cap would work, if we have a cap, is that you have a ceiling on the number of people in a government department, but people leave the Public Service and you replace them. That is not a freeze. A freeze is where you say that you cannot replace someone who retires, resigns or leaves. That is the difference. Let us understand this: a cap is a ceiling on the number of public servants employed in a government department and, if people retire or leave, you replace them, but you do not exceed the cap. A freeze is when you say that if someone leaves the Public Service you do not replace that position, which is a reduction strategy. A cap is a status quo: a freeze is a reduction. And I am looking at both of them.

HEALTH CARE, NORTH-WESTERN SUBURBS

Mr RAU (Enfield): My question is to the Minister for Health.

Members interjecting:

The SPEAKER: Order!

Mr RAU: What work is underway to improve primary health care services in the north-western suburbs of Adelaide?

The Hon. J.D. HILL (Minister for Health): Providing health care for South Australians is about more than hospitals. The government understands the importance of providing local and accessible primary health care services, and that was a key recommendation of the Generational Health Review. By identifying and treating health conditions early, we can keep the pressure off our hospitals and improve the wellbeing of South Australians. Everyone should understand this. Part of our strategy and one of our key election commitments is to build GP-plus health care centres right across Adelaide. We announced during the election campaign that we would build four of these centres—one at Aldinga, one at Woodville, one at Elizabeth and one at Marion—as the starting points. These centres will combine a variety of health services—for example, GPs, nursing services, mental health, health education, allied health and health education—and the types of services that are available will be catering to the health needs of that local community.

As members would understand, the work at Aldinga is already under way, and the Public Works Committee recently approved the Woodville centre. The Woodville GP Plus Healthcare Centre will also be the new headquarters for SHine SA. SHine SA was originally the Family Planning Association, which was initiated by Don Dunstan, I think, in the 1960s, and recently it has morphed in SHine SA. SHine SA and the government believe that it is more appropriately placed now in the western suburbs, where the demand for the services would be higher.

Unfortunately, the member for Waite used the Woodville GP Plus centre as an opportunity to attack the provision of

sexual health services in the community. The member said a number of things (which I will not go through today), and he labelled the services as 'controversial' (that is, sex education is controversial, which is an extraordinary statement for the 21st century), and asked whether that money could be better spent elsewhere. Mr Speaker, there is significant evidence to demonstrate that sexual health education and clinical services lead to positive social and public health outcomes. Let me compare the figures in South Australia for 2002 and 2004. In 2002, 44 per 1 000 teenage girls between the ages of 15 and 19 became pregnant. Now, two years later, that has reduced to 39, and that is a good thing. The teenage birth rate has fallen over that period from 18.7 people per 1 000 to 17.9 people per 1 000. The teenage abortion rate (this is the figure I want people to understand) has fallen from 24.5 per 1 000 to 21.1 per 1 000.

People might say: 'So what? That is a minor reduction.' But let me compare it with the figures from the United States of America. These figures are starkly different from those of the United States of America. The teenage pregnancy rate per 1 000 in the USA is 85.7 compared to 39 in South Australia. The birth rate for teenagers in the United States is 52.1 per 1 000 compared to 17.9 per 1 000 in South Australia and the abortion rate is 33.6 per 1 000 in the United States compared to 21.1 per 1 000 in South Australia. Why is that so? The difference is that we have proper sex education in South Australia. Those who are opposed to abortion in our community should support sex education. Sadly, some of those who are opposed to abortion are also opposed to sex education, and the result of opposing both those things produces the results we see in the United States of America.

An honourable member: It saves them having to think.

The Hon. J.D. HILL: As the member said, it saves them having to think. Over the last two years in South Australia we have had quite some success. We have had a 15 per cent reduction in teen abortions and around a 4 per cent reduction in teen births over just those two years. That is a very good outcome. While many things contribute to that, there is no doubt that a strong program of sexual health education has contributed.

I will outline some other factors in relation to the GP Plus centres. The project at Woodville will be funded, in part, from the $2 million sale of SHine's current premises in Kensington. The current site has occupational health and safety concerns and is poorly located. The plan will enable an after-hours GP Plus service for the western suburbs, and negotiations with private GPs are currently under way. That is a very good outcome and it is very sad, I think, that members opposite try to take cheap political advantage of something which makes great sense and which will be of great value to the community of the western suburbs. I will happily provide the member for Waite with a more detailed briefing if he would like one, so he does not go out into the community and say silly things.

Ms CHAPMAN: Mr Speaker, I have a supplementary question.

The SPEAKER: I think that, generally, a supplementary question should be asked by the person who asked the original question. The member can ask a question, because the call has passed to her side of the chair. So, the question is hers; it is just not necessarily a supplementary question. I will give the deputy leader the call. She is asking the question.

HEALTH

Ms CHAPMAN (Deputy Leader of the Opposition): My question is to the Minister for Health. If the government is so committed to primary health, why did it underspend by more than $2 million its primary health budget in 2004-05 just for the northern central region?

The Hon. J.D. HILL (Minister for Health): For the information of members and the deputy leader, the health budget in South Australia is about $2.7 billion, that is, $2 700 million. I cannot work out the percentage of $2 million, but it is less than 1 per cent of the total budget. If we have come in with less than 1 per cent of the total budget we are doing well. As a government, we are committed to primary health care. We are strongly committed to primary health care; and, in the past, it is an area which state governments have been reluctant to get into. We have been wanting to get into it and that is why, during the election campaign, we announced the establishment of—

Ms Chapman interjecting:

The Hon. J.D. HILL: Did you want to answer your own question? I know you are desperate to be on this side, Vickie, but you really should listen to the answers being provided. Sergeant Pepper, Mr Speaker, has a very small group of supporters. Members of the Lonely Hearts Club Band are behind her, and the thing about them is that they are becoming lonelier and lonelier.

Ms Chapman interjecting:

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

Mr HAMILTON-SMITH: I rise on a point of order, Mr Speaker. The minister just addressed a question that was before the house last week when the Public Works Committee tabled its report into—

Members interjecting:

The SPEAKER: Order!

Mr HAMILTON-SMITH: —the facility to which the minister just referred. I seek your guidance, sir. Should ministers contribute to the debate of reports from parliamentary committees and make their contribution at that point—

The Hon. K.O. Foley interjecting:

The SPEAKER: Order!

Mr HAMILTON-SMITH: —or should ministers use question time to make ministerial statements relevant to debates tabled by parliamentary committees earlier during proceedings?

The SPEAKER: The member for Waite raises an interesting point. In fact, it was the Deputy Leader of the Opposition who asked the question. I am not sure whether the member for Waite is asking whether I should have ruled the deputy leader's question out of order, but the rule is—

The Hon. P.F. Conlon interjecting:

The SPEAKER: Order! The standing order that applies is that of pre-empting business. I recall the debate. I am not sure whether or not the report was passed. I am not sure whether it is still standing on the *Notice Paper* or whether it has been despatched. Certainly, if it has been despatched members are free to ask questions about it and the minister is free to respond. However, in that case I think the question is fine, and the minister's answer is fine as well.

WATER CONSERVATION AND SUSTAINABILITY

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

government doing to promote water conservation and sustainability in our schools?

The Hon. J.D. LOMAX-SMITH (Minister for Education and Children's Services): I thank the member for Reynell for her question, because she has always been interested in the importance of conservation and sustainability within our schools as in the rest of our community. This week I am pleased to announce a series of funding rounds and grants to state schools and preschools worth $1 million to undertake in this instance an audit of their own water consumption and to implement a range of water-saving initiatives. This work will eventually include such activities as water-free urinals, drip-feeding water systems and a range of sub-surface irrigation equipment. Schools are expected then to use this scheme and method they have implemented as part of their curriculum to teach about water conservation within the school.

In the current round of announcements, Adelaide High, Ceduna Area School and Salisbury High School will receive $50 000 each in grants. I am also pleased to inform the member that one of her schools in Reynell, Wirreanda High School, will also receive a grant for a project of this sort. This follows another one of her schools in a previous round, Christies Beach High School, with the Yungalungala project watering system at the back of the school. She knows how important these schemes are. They complement our Solar School Initiative, which has seen $1.25 million being spent on 74 schools receiving solar power—with us on track—and a further 23 to be installed to reach our target of 250 solar schools.

I am also pleased to announce that we had a Wipe Out Waste (WOW) exhibition, which we initiated with Zero Waste and KESAB, working throughout our schools to reduce waste production within the education system. These displays from our schools showed innovative projects and the commitment of our students to help create a greener community. Together with our energy-saving initiatives and our Zero Waste initiative the water conservation programs will really fit in well with our curriculum.

PUBLIC SECTOR EMPLOYMENT

The Hon. I.F. EVANS (Leader of the Opposition): Why did the Treasurer deny to *The Advertiser* that there was any directive to curb public sector employment? On 24 May *The Advertiser* reported that the government spokesperson was denying 'there was any directive to curb public sector recruitment'. This was two days after cabinet had made the decision to introduce a full-time equivalent cap for each agency. Following the decision, CEOs will now have to get cabinet approval to exceed the cap.

The Hon. K.O. FOLEY (Treasurer): I don't understand the questioning. They are not very flexible in terms of repositioning themselves. Because no decision has been made. We have not actually decided anything. I mean, you are talking about—what was the question? FTE reduction did you say?

The Hon. I.F. Evans: FTE cap.

The Hon. K.O. FOLEY: Yes, a cap. I said we are looking at it. We haven't got it. We are looking at it and we are thinking about a freeze. I think a freeze has a lot of merit. I am not sure whether my colleagues are over-excited by the thought. A freeze is a good option in my view, and we are looking at it as part of the budget process and we will make a decision in September.

Members interjecting:

The Hon. K.O. FOLEY: Oh, the deputy leader, here we go again—a freeze means a sacking.

Ms Chapman interjecting:

The Hon. K.O. FOLEY: How do you work that out? 'Oh sorry, your position is frozen and we are going to sack you.' We are not sacking people. So my statements on ABC Radio and in *The Advertiser* are totally consistent with government policy. What the opposition is doing is misrepresenting a number of things, but more concerning is the fact that they do not understand what a cap is and what a freeze is. Let me refresh your memory. A cap is a ceiling on the number of public servants that you can have within a government agency, but it allows you to replace them when they retire. A freeze is if we say that if somebody leaves your agency you do not get a replacement. One is the status quo, the other is a reduction. We are considering both. As the Treasurer, the freeze has a lot of attraction to me. For the rest of my colleagues, I guess there is a varying degree of enthusiasm. But, ultimately, we will make that decision in the lead up to the budget.

But I notice this morning in *The Advertiser* the failed former treasurer who presided over four hopelessly deficit budgets saying words to the effect that the government was naive in thinking that 300 expressions of interest or more in voluntary separation packages would equate to that many people leaving, that it would be naive to think that people registering some interest—I think they were words to that effect—in a voluntary separation package would actually leave, implying that not too many people voluntarily leave the Public Service. Well, this lot promoted getting rid of 4 000 people and said they were going to be voluntary. So Lucas is saying I'm naive and we're naive for thinking that 300 might voluntarily leave the Public Service, but his policy at the election was that 4 000 would magically volunteer to leave the public service. He is a hopelessly failed treasurer and he is making a fool of himself in opposition.

The SPEAKER: Order! The minister is now debating.

Members interjecting:

The SPEAKER: Order!

CABARET FESTIVAL

Ms FOX (Bright): Can the Premier advise the house about the success of the 2006 Adelaide Cabaret Festival to date?

The Hon. M.D. RANN (Premier): It wasn't Dr Samuel Johnson who said, 'He who tires of cabaret is tired of life.' I think the quote is quite different from that. Anyway, he should have said it. This year's Cabaret Festival has spoiled us with, so far, 12 nights of cool, witty and daring entertainment and, of course, there are more nights to go. The event has been brought to us by 400 artists in 200 performances, and 10 of these have been premieres. The Adelaide public has been treated to the likes of Mandy Patinkin, Engelbert Humperdinck—after yesterday's question time the theme song of the deputy leader should be *Please Release Me Let Me Go*! We have also seen Camille, Tripod and Paul Kelly—maybe for the leadership challenge *If I Could Have This Day Again* or *From Little Things Big Things Grow*—and Paul Grabowsky, and, of course the 'Tonies'—Lamond and Sheldon.

This year's program has illuminated the already overloaded intellect of Adelaide with further joy. Fifteen thousand people entered through the Festival Centre's doors over the

opening long weekend alone. The festival box office has never previously grossed $1.1 million, but it has this year, and we still have some days to go. Ticket sales are expected to be the best ever, with well over 41 000 attendances to date for both the ticketed and free events. Only five days into the festival, last week, 40 shows were sold out, and the event has received strong reviews both locally and from media around the nation.

So, we are delighted that the Cabaret Festival is going from strength to strength, fast establishing itself as one of the state's most popular and successful festivals. I would like to take this opportunity to congratulate Julia Holt and the team on such a fantastic event. They have done an exceptional job and I am sure that all of us are looking forward to next year. It is great to see the influence of one musical on so many members of parliament, and we are looking forward to, perhaps, our own amateur reprise at the end of the session.

PUBLIC SECTOR EMPLOYMENT

The Hon. I.F. EVANS (Leader of the Opposition): My question is to the Treasurer. If there is no in-principle decision to establish a cap, why did the Under Treasurer write to all chief executives on 5 June advising them, 'Treasury and Finance will monitor agency compliance with FTE caps.'?

The Hon. K.O. FOLEY (Treasurer): As I said, the government took a—

The Hon. I.F. Evans interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: As I said earlier, the cabinet made a decision that it would do a census on a particular given day for statistical purposes to properly measure the employment numbers in government.

The Hon. I.F. Evans interjecting:

The Hon. K.O. FOLEY: To get an establishment number.

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: If you want me to answer the question, I am happy to.

Mr Williams interjecting:

The Hon. K.O. FOLEY: That's true. A census was taken to enable us to collect the data to ascertain a better number of public servants in the government, a matter for which we were criticised during the election campaign. We were criticised during the election campaign, and we want to better establish the work force numbers. Whether we make an official policy that a cap will be an enforceable instrument of government policy has not been taken. If you are saying that the Under Treasurer is saying that you have to get approval to exceed the cap, does that sound like it is an enforceable cap? We want to measure the number of people in the public sector at a particular given time. We are considering whether we enforce that cap as an instrument of government policy where agencies will not be able to exceed it, or the other option which would be a freeze. Should we choose to do a freeze—which I am attracted to—it would mean that there would be a reduction in the number of public servants. These are two quite different instruments. We are considering both. No formal decision has been taken to adopt either.

FORESTRY INDUSTRY

Mr BIGNELL (Mawson): My question is to the Minister for Employment, Training and Further Education. What is the government doing to prepare for the expected jobs growth over the next five years in the forestry industry in South Australia's Green Triangle?

The Hon. P. CAICA (Minister for Employment, Training and Further Education): I thank the member for Mawson for his question, and I acknowledge that he was raised in the Green Triangle. Today, I want to draw to the attention of the house a project that has as its foundation an excellent example of partnerships and collaboration that are required to identify skills needs and training requirements across a whole range of vocational areas in industries as we continue in our efforts to skill South Australia.

The South Australian government, through South Australia Works and TAFE SA, in conjunction with industry, has undertaken a project to identify the work force development needs of the forest industry in the Green Triangle. This has been a truly collaborative enterprise. As well as the South Australian government, the joint project sponsors include the Forestry Industry Training Network, the Limestone Coast Area Consultative Committee, Auspine, the Logging Investigations Training Association and the Green Triangle Regional Plantation Committee. TAFE SA, SA Works and FITNET have provided financial support to the project. TAFE SA has also provided in-kind support through data collection and analysis.

The project report, Forestry Greenprint—and I thank the minister (the member for Mount Gambier) for bringing that report to my attention in the first instance—recommends a whole of industry collaborative approach in developing effective and efficient training that meets industry needs and further enhances the Green Triangle's forest industry reputation as national leaders in innovation and training.

The importance of the project becomes evident when we understand that by around 2011 the volume of hardwood to be harvested is expected to be around eight million tonnes per annum. The increase from the current base of 4.6 million tonnes will require a rapid expansion of the work force requirements for the region. An anticipated 800 to 900 extra jobs will be needed. The areas of growth over the next five years will include forest growing and management, forest harvesting, haulage, sawmilling and processing.

As well as identifying labour and skills shortages, the project has identified future recruitment and training issues, issues to do with the management of an ageing work force, and opportunities for growth and expansion. FITNET has already been involved in activities to raise awareness of the growing work force needs in the forestry industry in the region by promoting the industry through the school system. Activities have included participation in careers information days, industry awareness activities, liaison with career counsellors and the commencement of a VET in schools program this year.

This enterprise is worthy because of the excellent work done by the various agencies that collaborated in the survey. It is also worthy because of the model it provides for future collaborations and partnerships as we continue to work towards identifying and meeting the skills that South Australia needs to ensure the state's continuing prosperity into the future. I congratulate all the people and organisations involved in this project.

SCHOOLS, PROJECT MANAGEMENT FEES

Dr McFETRIDGE (Morphett): My question is to the Minister for Education and Children's Services. What

percentage of project management fee is being charged by the state government to manage projects being funded by the federal government in our schools programs? Today's *Australian* states that the South Australian government is charging project management fees as high as 20 per cent. I am advised that a normal fee would be in the range of 5 to 10 per cent.

The Hon. M.J. WRIGHT (Minister for Administrative Services and Government Enterprises): I can advise the shadow minister (the member for Morphett) that it is a very small fee indeed. The advice I have been provided is that DAIS charges 2 to 3 per cent for contract facilities fee—not the 20 per cent that has been speculated by *The Australian*.

Dr McFetridge interjecting:

The Hon. M.J. WRIGHT: The interjection is also incorrect, as I understand it. Any speculation of what the government charges, by putting a figure of 20 per cent on it, is simply not correct. It may well be that the contractor would charge in the order of 10 per cent but, even taking that into account and what is charged by DAIS, it is still well below the 20 per cent that has been speculated in *The Australian* today.

Dr McFETRIDGE: I have a supplementary question. Is DECS, or any of its contractors, charging a management fee on the parent and volunteer-funded projects? If so, what is the percentage of the total project cost that is being charged?

The Hon. J.D. LOMAX-SMITH (Minister for Education and Children's Services): DECS does not manage its projects in the way that the member for Morphett is implying. If he would like to explain what he believes he is asking, I will try to answer the question.

BE ACTIVE AWARDS

Ms CICCARELLO (Norwood): My question is to the Minister for Recreation, Sport and Racing. How is the government recognising the achievements of grassroots community recreation and sporting organisations in increasing participation in sport and physical activity?

The Hon. M.J. WRIGHT (Minister for Recreation, Sport and Racing): I thank the member for her question. At the recent Be Active Recreation and Sport Industry Awards ceremony, awards were presented to the winners of 10 categories covering such areas as volunteer and event management, safety initiatives, and programs for specific population groups. The calibre of winners showed the strength of the recreation and sport industry in South Australia and is testimony to the work of the sector's dedicated staff and volunteers.

I congratulate the Surf Lifesaving Association of South Australia which won the minister's award for its Nipper Safe project. The Nipper Safe project is a member protection strategy developed in cooperation with SAPOL and key child protection agencies. This educational initiative helps participants recognise indicators of child abuse, and it points out how surf lifesaving clubs and the community can tip the scales away from child abuse in all its forms.

I also highlight another very important category in the awards that recognises the work that local community groups do to achieve increased participation rates. I was extremely pleased that the winner of the Be Active award for a community physical activity initiative, selected from over 20 nominations, was the Payneham Table Tennis Academy. The academy, run entirely by volunteers, has been able to increase its playing group from a low of just 60 members to a current active membership of 385, showing that with the right strategies in place local community groups can create very significant increases in participation. The member for Norwood, whose electorate this is in, was there on the night, and I am sure that she will pass on my congratulations to all members of the academy.

DNA TESTING

Mrs REDMOND (Heysen): Why did the Treasurer say to the house yesterday that the Liberal government never came up with a policy to DNA test people? Yesterday, the minister stated, in answer to a question, that the former Liberal government never came up with a policy to DNA test people. In 1998, the former Liberal government adopted legislation to DNA test people when it introduced and passed the Criminal Law (Forensic Procedures) Act 1998. The Liberal government's justice policy, prepared for the 2002 election, also clearly shows a policy on DNA testing. In his first day briefing papers, the Attorney-General was actually specifically advised in relation to DNA testing that the new amendments had now been drafted and that both major political parties had made elements of this issue a part of their election platform.

The Hon. K.O. FOLEY (Treasurer): Devastating question. If I have hurt the sensitivities of the opposition and if I have misrepresented what they may have done in government, I humbly apologise. I humbly apologise and correct it. I am mortified at the sensitivities of members opposite about their inadequate and somewhat pathetic approach to law and order policies.

Whilst I am on my feet, I refer to the issue of an FTE cap. I now have a copy of the Under Treasurer's minute—

Mrs REDMOND: A point of order, Mr Speaker.

The SPEAKER: Order! I uphold the point of order. If the Treasurer needs to clarify something, he needs to do it either as a personal explanation or ministerial statement.

PAYDAY LENDING

Mrs GERAGHTY (Torrens): Will the Minister for Consumer Affairs inform the house about the progress being made through the Ministerial Council on Consumer Affairs in relation to payday lenders and fringe credit providers?

The Hon. J.M. RANKINE (Minister for Consumer Affairs): I thank the member for Torrens for her question; she is well known for her very strong advocacy for those less well-off in our community, and there is little doubt that, in the main, those accessing payday lenders are people who are struggling financially. Payday lenders provide small, short-term loans, but that appears to be the only part of the business transaction that is small. I have been advised that we have about 20 payday lenders operating here in Adelaide and that they levy charges that are equivalent to annual interest rates ranging from 350 per cent to 1 900 per cent. These loans are generally targeted at low income earners who are unable to access mainstream credit, and the loans are often used to enable the consumer to fund emergency situations such as car repairs and the replacement of household essentials such as a refrigerator. Borrowers are normally charged a flat fee rather than an interest rate, but for a $100 loan over a two week period that can equate to an interest rate of about 650 per cent.

The uniform Consumer Credit Code was altered in 2001 to alleviate some of the problems identified as emanating from these fringe credit providers, but it was acknowledged at the time that further reform would be needed. A series of working parties was set up by the national Ministerial Council on Consumer Affairs to look at these issues. Some of the subsequent regulatory options involving amendment to the credit code included allowing all fees to be challenged on the grounds of unreasonableness, allowing government consumer agencies to challenge unjust credit contracts, and prohibiting the taking of household goods as security. An impact statement is currently being prepared, and it is anticipated that the Ministerial Council on Consumer Affairs' approval to draft the necessary amendments to implement these recommendations will be sought in the next couple of months.

It is widely recognised that a significant number of the consumers who use this section of the market to gain access to credit facilities are disadvantaged and vulnerable and, as a result, need protections to be put in place. The member for Torrens is to be commended for raising this issue and for the considerable work that, I know, she has already undertaken in this area. The fact is that many short-term credit providers are exploiting borrowers, and I will be supporting the work to ensure undesirable lending practices are effectively regulated.

DRUG DRIVING

Mr HAMILTON-SMITH (Waite): My question is to the Deputy Premier. Why did the Deputy Premier claim yesterday that no-one in opposition raised the issue of police drug testing drivers for the presence of ecstasy during debate on the drug-driving bill, when *Hansard* clearly shows that this is not the case? Yesterday I asked the Premier why the government had not empowered police to prevent drivers who returned positive results for MDMA or ecstasy from driving for 24 hours, as is the case for cannabis and methamphetamines under the new drug-driving laws. The Deputy Premier, in response, during the debate on the drug-driving bill, said that 'none of these matters was raised by the opposition'. However, on 18 October the then shadow minister for transport stated, in the second reading debate on the bill, that, 'I would have liked to see in the legislation the broadening of scope of random drug testing to allow for the testing of illicit drugs other than amphetamines and cannabis,' and that, 'I would have liked to see the legislation broadened from the beginning.' The members for Schubert, West Torrens and Hammond also raised concerns that drug testing should be extended to other illicit drugs.

The Hon. K.O. FOLEY (Deputy Premier): I had trouble following that one but I still did not hear the word 'ecstasy', did I? I have to confess that my colleague who had carriage of the bill, from memory, gave me some advice when I was on my feet yesterday. I would have thought that I qualified it but, if I did not, I apologise.

Members interjecting:

The Hon. K.O. FOLEY: Hang on: I did not hear the honourable member use the word 'ecstasy' in the question.

The Hon. I.F. Evans: 'Other illicit drugs.'

The Hon. K.O. FOLEY: Fair dinkum, if question time has degenerated into members opposite going and checking what was said in *Hansard* one day and what was said the last time, give me a break! Do some hard work, opposition, and come up with some decent questions.

OPERATION FLINDERS

Ms BREUER (Giles): My question is to the Attorney-General. What support has the Rann Labor government given to the highly regarded Operation Flinders program? I would urge every member here to go and visit the Operation Flinders program.

Ms Chapman interjecting:

The Hon. M.J. ATKINSON (Attorney-General): I am not quite sure why the member for Bragg objects to the Operation Flinders program being referred to as 'highly regarded'.

Ms CHAPMAN: On a point of order, Mr Speaker—

The SPEAKER: I think I know what it is going to be. The Attorney-General must not debate and needs to answer the question.

The Hon. M.J. ATKINSON: On 24 May this year on 891 ABC Adelaide a caller (to wit, Jim) rang in to the morning show to make a complaint about what he described as a lack of support by the state government for the Operation Flinders program. How wrong could you be! For the benefit of members, I welcome the opportunity to clear up this matter and explain the state government's support.

Operation Flinders is a not-for-profit association with charity status that runs programs for young offenders and young people at risk. The program takes young people between the ages of 13 and 18 on an eight-day exercise in the far northern Flinders Ranges. Since its inception in 1991, using largely Australian army money, 3 021 young South Australians have participated in the Operation Flinders exercise, which includes a 120-kilometre trek. During the exercise they learn about Aboriginal culture and the history of the area through which they pass. Each group is led by a team leader, who is usually a serving or retired army or police officer.

This Outback experience is demanding. It teaches self reliance and self confidence and enhances self esteem. In the bush there are no options for the participants to drop out, as they may be tempted to do back in the city. The chief aim of Operation Flinders is to help change behaviour in young people, and I understand that over the years it has been most successful. Oh dear: I hope the member for Bragg will not condemn me for debating the question by saying that it has been most successful. I am pleased to say that I knew of Operation Flinders' good works before the Rann government came to office. At that time, the organisation had bid for more support from the then Liberal government, but I am told that the bid languished for five years unsatisfied.

Indeed, it is well-known that the then head of Justice, Kate Lennon, wanted to stop government funding of Operation Flinders, and in this she was supported by the Attorney-General of blessed memory. Upon attaining government, I took steps to offer the government's support for the program. I became the minister responsible for Operation Flinders. Before, they had had to take their begging bowl around several ministers. We entered into a three-year contract to support them, and we are proud that the government of South Australia is Operation Flinders' principal supporter. I hope it will be possible to extend that arrangement, and I will discuss options with my department and Operation Flinders closer to the end of the contract. I was glad that John Shepherd, who accompanied me on my trip to Mooloolloo Station, (which was then a sheep station, on which the operation was conducted), called the ABC that very morning and said to—

The Hon. I.F. Evans interjecting:

The Hon. M.J. ATKINSON: No, I did not even have to pick up the phone. No-one rang him. He called the ABC and spoke to Matthew Abraham and David Bevan, and he said of Operation Flinders:

> . . . in fact get $200 000 a year from the Government via the Attorney-General who when he came to power we'd been put off for a long time about getting a permanent contract but when he came to power the first thing he did was call us up and said, 'Right, I want to formalise the situation with you guys', and has set in place a three-year contract and has said that if we do the right things there was another three-year contract and he has said that he may increase it in the next couple of years.
>
> David Bevan: So, in terms of secure funding from state government, it's never been better?
>
> John Shepherd: Never been better. . . I used to spend an enormous amount of time going around trying to convince bureaucrats and politicians they ought to give us money and it's just taken the weight off our shoulders. . .

I think that Mr Shepherd's comments speak for themselves. I know most honourable members will agree with me that Operation Flinders should be commended for its valuable work. It truly gives some South Australian young people a second shot at life.

DRUG DRIVING

Mr HAMILTON-SMITH (Waite): Why did the Minister for Transport claim yesterday that, during debate on the drug-driving bill, the proposal to test only for marijuana and amphetamines was never challenged, when *Hansard* clearly shows that that was not the case? Yesterday, I asked the Premier why cabinet had not included ecstasy as a prescribed drug in the new drug-driving laws. The Minister for Transport replied:

> . . . when this bill was brought to the chamber, not only was it explained that the tests would be for two drugs, namely, marijuana and amphetamines, and the reasoning for that, but also it was never challenged.

However, *Hansard* on 18 October 2005 (page 3647) records the following comments from the shadow minister (Hon. Rob Brokenshire):

> . . . I am also concerned that some people might opt to use illicit drugs other than amphetamines and cannabis to avoid being charged with drug driving. I would have liked to see the legislation broadened from the beginning.

The Hon. P.F. CONLON (Minister for Transport): Thank you. I thought he would never ask. Now, put this in context, sir. Last week we had the member for Waite running around saying, 'It's disgraceful. It's idiocy that they didn't include ecstasy.' What I said was that they did not mention the word during debate in either house. One MP did: Tom Koutsantonis, the member for West Torrens. He was the only MP who mentioned it. I stand by the fact that this continually weak opposition would not challenge it. I ask people to go to the record and observe the series of amendments proposed by the opposition and find one that said we should test for more drugs. I quote the lead minister handling this for the opposition in the Legislative Council, as follows:

> This new offence will be based on the presence of a prescribed drug in a person's saliva or blood, and THC and methamphetamine are the two drugs being tested for. These drugs are proven to adversely affect a driver's ability. They are not found in Australian prescription medicines. . .

It sounds like a big challenge, doesn't it? It was absolutely accepted by their lead opposition spokesperson in the council, where they said they were going to move amendments and they never did. But how bad are they on this? I turn on the radio and they have got a voice from the electoral political grave defending them. They have got Robert Brokenshire—private citizen, Robert Brokenshire. This bloke is so bad at his job that he is getting the politically dead to do it for him. He will be here with a ouija board next. I mean, how pathetic! They drag them from the political grave to pursue a line that is absolutely unsustainable.

The point is that they knew absolutely what the law was about. They understood it. They talked about it and they did not challenge it. A few weasel words from the politically dead will not change that. Members opposite had their opportunity. The opposition actually had the numbers for amendments in the Legislative Council, and do you know what they did? They did not move them. They went to water. They did not move them. So, do not come in here with your weasel words and try to get out of it. You were pathetic then and you are pathetic now.

FAMILIES AND COMMUNITIES, TRAINING BUDGET

Ms CHAPMAN (Deputy Leader of the Opposition): Will the Minister for Families and Communities explain why $155.6 million, as disclosed in the last annual budget, is the cost of training in his department, being more than 15 per cent of its $1 billion budget?

The Hon. J.W. WEATHERILL (Minister for Families and Communities): It is a very good question. I will look into that. It seems like a lot of training to me. I will look into it and bring back an answer.

TRANSPORT DEPARTMENT LAND, PORT AUGUSTA

The Hon. G.M. GUNN (Stuart): My question was to be directed to the Premier, but, in his absence, I will direct it to the Deputy Premier. Will the government be proceeding with the sale of South Australian Department of Transport land south of the yacht club at Port Augusta?

Members interjecting:

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

The Hon. G.M. GUNN: I understand that the Mayor of Port Augusta has written to the Premier on three occasions requesting that the government not sell the land which was earlier earmarked for the City of Port Augusta. The mayor wrote on 31 August, 23 September and 30 October. The mayor has yet to receive a written response. I have discussed the matter with the Premier and asked him whether he would be prepared to meet a deputation. I ask this question as it is very important to the citizens of Port Augusta, because clear undertakings were given by the previous government that the land would be transferred to the City of Port Augusta.

The Hon. P.F. CONLON (Minister for Transport): I am not quite sure which land you are talking about. If you are talking about the land that is in the process of sale to a private developer—

The Hon. G.M. Gunn interjecting:

The Hon. P.F. CONLON: It is one thing for the mayor to write off, and she might have written earlier, but every step was taken with the full knowledge and concurrence of the council. That is my understanding. That has been my briefing. If it is the land we are talking about, the council itself has made a mistake. We told the council exactly what we were doing. We offered it to the council. The council had

control of the zoning at the time. What the council wants, as I understand it (and having been complicit in the entire process), is to change its mind and have us break a legal arrangement with a private party. I think that is quite bizarre. I do not think that the member for Stuart should complain about this. He got a tremendous electoral advantage out of what was a complete misrepresentation of responsibility on this. If any error was made the council made it, not this state government. We informed the council every step of the way. I was not the minister at the time, but I have been back through the paperwork.

From memory, one of the honourable member's federal colleagues has written about this, and we sent him the paperwork. The paper trail makes it absolutely clear that the council knew all about it, was complicit in it and then decided to change its mind and complain after a legal arrangement had been entered into with a private party. We are always happy to talk to the council. Last time I was driving through Port Augusta, on private matters, I called in and had a glass of bubbly with Her Worship. It is always entertaining. I have great regard for her and people up there love her too. She did not do a bad job for the member for Stuart, but on this one she is not correct.

PUBLIC SECTOR EMPLOYMENT

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

Leave granted.

The Hon. K.O. FOLEY: Earlier in question time today the Leader of the Opposition alleged that the government had placed a freeze on the public sector workforce. I can advise that a request has been made to CEOs by the Under Treasurer for information on FTE numbers—that is bureaucratic jargon for full-time equivalents.

As I advised the house, the purpose of this exercise is to conduct an initial census of government employee numbers. CEOs were advised—and I understand the opposition has a leaked memo, as they call it, pretty well given to many, many people in the public sector, hardly a confidential memo—by the Under Treasurer on 5 June 2006 that:

> This data will be used to set an initial FTE cap for each agency. The cap will be adjusted by cabinet as necessary. Typically, it will be adjusted upwards if new activities are approved—

Ms Chapman: You just haven't worked out what it will mean.

The Hon. K.O. FOLEY: That's right. That is exactly correct. The deputy leader is correct. We have not worked out exactly what it will mean and what it is yet. She is absolutely correct. Thank you. He continues:

> and adjusted downwards if savings results in reduced activity levels.

This is an exercise to set an initial FTE cap for each agency which, as I said, can be adjusted up or down, allowing cabinet to decide, if it wishes, to implement a more permanent measure in the forthcoming budget. We may have a permanent cap and we may have a freeze, which is something I am attracted to. At this stage it is an initial process which can be adjusted up or down.

Ms Chapman: We're going to one.

The Hon. K.O. FOLEY: We may. Absolutely we may.

GRIEVANCE DEBATE

TRANSPORT DEPARTMENT LAND, PORT AUGUSTA

The Hon. G.M. GUNN (Stuart): During question time today the Minister for Transport again followed the line that the City of Port Augusta had got the whole process wrong. Can I again draw to the minister's attention the clear and unequivocal comments made by previous minister Laidlaw in correspondence between her department and the City of Port Augusta that clearly indicated that the land would be transferred to the City of Port Augusta and that there were some delays because the land, firstly, had to come from the commonwealth and the best way of doing it was to transfer it to the state and then to the City of Port Augusta. But I do ask the minister if he will ensure that the government sits down and negotiates, in good faith, with the city over this particular matter.

The second matter that I want to draw to the attention of the house is that parents from the Port Augusta West Primary School have written to me expressing their grave concern at the lack of relief teachers in the Port Augusta area. The letter states:

> The parents of the students at the Port Augusta West Primary School are writing to appeal for more relief teachers to be available to our school.
>
> Currently teachers are splitting classes to accommodate for the absence of relief teachers. This is very unsettling to the children especially the reception students as some have trouble settling in to a school routine. It is also very unsettling to the children suffering disabilities who find it difficult to cope with change when classes are being split. In Term 1 and already in Term 2 classes are being split as a result of the lack of relief teachers and we are concerned that this matter will only worsen throughout the year. Already, most of the town's relievers are booked for most of the days for the rest of this term.
>
> We are also concerned about the stress being placed on the teachers when relief teachers are not available. The teachers are currently exhausting all resources when in need of a relief teacher and none are available. This leads to more staff sickness which further compounds the problem. We feel other areas of our school will suffer if there are not enough teachers to run classes.

The letter was signed by the secretary of the Port Augusta West Primary School council. I ask the minister and her officers to do whatever is possible to alleviate this difficulty. I know that it has been ongoing in others parts of the state, but there is an urgent need to give necessary incentives to ensure that there is a pool of relief teachers, and that teachers who have left the teaching fraternity but who wish to return should be encouraged and red tape kept to a minimum. I have one example of a very competent teacher who has been put off from reapplying because of unnecessary bureaucracy and red tape.

I have another letter concerning the ongoing saga of the Hawker Area School in relation to its school bus. It is becoming *Blue Hills*. This long-suffering school community deserves to have some facilities from government. This letter is dated Wednesday 21 June, and it brings us up to date. The letter states:

> Thank you for your continuing support to the Hawker Area School community in the retention of the school bus as you are aware DECS transport department have decided to withdraw the last yellow school bus at the end of term 2/2006 due to the 7 current students travelling on the bus not meeting DECS policy. . .

We lobbied the minister to retain the bus in 2004. Minister White guaranteed to continue the operation. The only reason

it was kept in vogue was because I sought the assistance of the member for Mount Gambier, as he was minister for various portfolios, and I spoke to him about it. I suggested on that occasion to the bureaucrats involved that, if they wanted to take school buses away, they should take the bus from Mount Gambier or from the seat of Chaffey. They considered it a silly question. I told them that we knew it would not happen and they would never be seen again if they tried to take it away. I appeal to the minister, and to her Sir Humphreys in that large department, to show a little compassion.

Time expired.

PAYDAY LENDING

Mrs GERAGHTY (Torrens): Today I asked the Minister for Consumer Affairs a question about the progress that is being made through the Ministerial Council on Consumer Affairs in relation to payday lenders, and in this grievance debate I want to expand on my concerns. The current consumer protection law has, as its origin, national uniform template legislation that dates back to 1995. In my view, there is a need to review the current consumer credit code to ensure that a number of loopholes that currently exist are closed, and to make it easier for consumers who are subject to unconscionable conduct by some lenders to seek redress. The need for a review is heightened by the fact that consumer credit is at an all-time high. With the federal government's industrial laws and increased fuel prices, we are likely to see significant increases in the working poor. This in turn will see an increase in the number of people running into greater difficulty with debt.

There are a number of areas that need particular attention in any review of the consumer credit code, and they are tighter controls on payday lenders and fringe benefit providers, the extension of the consumer credit code to cover small and micro businesses, and a review of the jurisdictions to which a consumer can seek redress when they feel aggrieved by the conduct of a credit provider. The issue of payday lenders and fringe credit providers processes came to my attention recently when a 69 year old constituent came into my electorate office seeking assistance over financial difficulties. After looking at her contract, I concluded that it appears she was caught up as a victim of a well-known payday lender. She had taken out a 30-day loan for $166, with two fortnightly repayments of $112.05, a total repayment of $224.10—$58.10 over and above the amount loaned to her, or 35 per cent of her original loan. This $58.10 was not shown as interest but as a $40.67 establishment fee and a data management fee of $16.

The constituent was also given a gold identification card, with an annual fee of $16. A default notice fee of $9 was payable on each default notice. If we were to annualise the base fees, the effective interest would be over 400 per cent, which, clearly, is appalling. However, the payday lender in this case showed the annual interest rate as zero and the interest charged as zero, which is really a nonsense and clearly deceptive. In the case of my constituent, there is a serious question about her ability to understand the nature of the credit contract she was entering into, which in itself is another issue we need to deal with.

A study by the Consumer Law Centre Victoria in 2002 showed that payday lenders exploit the vulnerable and financially illiterate. The study found that it is not uncommon for 30-day loans to be rolled over eight to 10 times. The years of rollover of these short-term loans means that many become entrenched in the old debt cycle, with the exorbitant interest rate and fee charges only exacerbating their credit problems. In Victoria, New South Wales and the Australian Capital Territory, payday lenders are limited to charging a maximum annual interest of 48 per cent. However, experience in these states has indicated that this has had limited effectiveness as the payday lender and the fringe credit providers use various fees (as I have already indicated) to disguise the real cost of the credit provided. The Victorian government consumer credit review of 2005 identified this as an issue and recommended that all fees and charges should be reviewable as to their reasonableness. The underlying costs of service provision should be the principal criterion of this assessment.

Given the growth in this industry and the emerging problems, there is a need to rein in payday lenders and fringe credit providers. I have had discussions with the Minister for Consumer Affairs, and she has indicated that she is supportive of the review being undertaken by MCCA. I also praise the efforts of various community bodies that have established or are establishing no-interest service loans such as NILS, as they are referred to. NILS providers offer a valuable community service by providing loans to the disadvantaged for unexpected expenses, such as the purchase of a fridge.

Time expired.

COUNTRY ROADS, FATALITIES

Mr VENNING (Schubert): As I said yesterday, seven people were killed on country roads over the last weekend, and four of those lost their life on roads in my electorate. To see so many lives lost over one weekend is a tragedy. I feel for the families affected. The question needs to be asked: why do we have weekends like this? On a weekend like this one, our road toll rapidly increases. As I asked yesterday, what are the factors responsible for these accidents? We know. I remind the house that they are road conditions, fatigue and inattention, inexperience and poor driver attitude, speeding, alcohol and drugs, and a combination of all of these. I rate road conditions as one of the worst and most important of these factors. It is something that we can and should do something about.

These accidents have raised the issue once again that the government also needs to start taking action on fixing up our country roads. How many more lives are going to be lost before the government escalates its road upgrading program? The government's record is poor, indeed. In fact, the Bannon Labor government has a much better record than this one. Driving to Adelaide on Monday night on the dual highway from Port Wakefield to Adelaide, I thought that it was a good road and it was put there by a Labor government. It was started by the Bannon Labor government but finished by the Brown Liberal government. But it is there and it is a great project. It is saving lives, because a lot of lives have been lost between Port Wakefield and Adelaide. Apart from some bad intersections, we have a good safe road—which is saving lives.

The previous Liberal government, of which I was a member, had a large road replacement program from 1994 to 2002 and, in my electorate alone, the Morgan to Burra Road and the new Gomersal Road, which I have brought up in this house ad nauseam, were $26 million worth in my electorate alone. They were massive road programs. What are we seeing today? Nothing like this. I have seen nothing in my electorate of any consequence at all since this government came to

power in 2002. It makes me angry to know that four of the people who lost their lives were driving on roads in my electorate. I have raised this matter before in this house, and I will continue to do so. The previous minister the Hon. Diana Laidlaw was very sympathetic. We had a campaign to remove trees and straighten roads, especially at known trouble spots and, in particular, the Barossa Valley Way from Sandy Creek to Lyndoch, where several fatalities occurred, some by running into the trees along that road. In fact, some of those trees were inside the white guide posts.

Not only does the government need to stamp more authority on the road safety messages that it sends out, but also it needs to fix the state of the country roads, especially in my electorate. Changes need to be made to the road safety strategy which was launched recently. We need to ramp up the educational program of driver responsibility, especially in our secondary schools. We almost need to shock students with what could happen to them if they do not drive responsibly. More signs on country roads are needed to warn people of the dangerous trouble spots, along with reminders such as 'fatigue kills'. I welcome the Driver Reviver program, run by our volunteer service clubs, but there needs to be more road maintenance in the problem areas. I know of a lot of country roads where the edges of the roads are crumbling away and, where the road is narrow, it is quite dangerous.

In teaching my children to drive—and even as recently as last week I had one of my staff in the car—I taught them to drive with one wheel off the road, because this is what happens especially with drowsy and inattentive driving. The noise at 80 to 100 km/h can be quite frightening when the stones come up underneath the car but, if the driver gets used to that noise, they will not overreact, as they do, by grabbing the steering wheel, which sends the car across the road into the oncoming traffic. If you get used to that noise, as my children have, it gets you used to the noise of the stones rattling underneath the car. You do not panic and you can ease the car back onto the road at the next safe opportunity. With two wheels on the bitumen, the car will sway a bit but it will not get out of control unless you go over a very steep verge. That is the way that I have chosen to tackle this.

I do not agree with this government's tactic of, rather than making our roads safer, reducing speed limits. It is nonsense in this day of modern cars, disc brakes, radial tyres and tuned suspensions to continually reduce our speed limits. In other countries, the freeways, autobahns and expressways are all increasing their speeds. It reduces congestion and keeps drivers awake. Driving at 100 km/h on country roads at night adds to fatigue and fatalities.

Time expired.

TOWNSEND HOUSE

Ms BEDFORD (Florey): I take the opportunity today to acknowledge the great work of Townsend House in its work at the new premises it now operates from in Modbury North, which is in the electorate of Florey. I was privileged to attend the handover lunch on 23 February for the premises which, until that time, had housed the activities of the Gully and Districts Cultural and Sporting Club and the Emu Cultural and Sporting Club. These clubs opened years ago to provide recreational activities for the large numbers of English-origin residents of the north-eastern suburbs, and they provided the sort of leisure activities that were lacking in the Tea Tree Gully area at that time. The clubs started from very humble beginnings but, through careful management, they managed to build up the facilities to the well-appointed rooms that are now being used for the additional and very different activities run by Townsend House. They also continue to be used for the activities of the clubs, and it was good to see a large number of members present at the hand over lunch. As member numbers had dwindled it was obvious that the rooms were not being used as often as they should be, so the members took the action to approach the Townsend House people and a happy partnership began. Because of the generous gesture made by these clubs, the Townsend House CanDo4Kids program will be available in the north-eastern suburbs.

CanDo4Kids is one of the services offered by Townsend House, a charitable children's organisation which has been helping the South Australian community since 1874. Townsend House has very strong links with this place, as it was founded in 1874 by William Townsend MP who, after two terms in office as mayor of Adelaide, set about fulfilling his ambition to establish a blind asylum in the city of Adelaide. William Townsend arrived from England on 2 August 1853 and, from a humble background of being unable to write, and having worked as an assistant to a potato merchant, established his own business and developed a strong interest in politics. He actively participated in developing the framework of the 1855 Constitution and became the sitting member for Sturt in 1857—a position he held until his death in 1882. He was a lay preacher in the Congregational Church and an active philanthropist of that period.

It was this spirit of philanthropy, combined with his determination and concern for people less fortunate than himself, that led him to establish Townsend House. As a strong orator of his time he was able to gain support, through speeches in parliament and in the community, to establish the Institution for the Blind, Deaf and Dumb. William Townsend established a public committee, with himself as chairman, to raise the funds needed to build the institution to house and protect the 'afflicted'. The committee was comprised of prominent citizens of the day, and raised money through philanthropy, government funds and citizenship. Thus began the history of Townsend House.

Built originally as an institution and charitable trust it provided a place of refuge and education, with boarding facilities as well. It was set in the rural area of Brighton and was largely shut off from the rest of the settlement. Back in those days people with a disability were often excluded from society, but William Townsend's aim was to educate the blind and deaf and teach them a trade so that they would not only be accepted by the community but they would also become an integral part of it.

CanDo4Kids is a relatively new initiative, which assists with early intervention, occupational therapy, family support services, recreation, assisted technology, complex case management and advocacy. Its focus is very firmly on broadening opportunities and improving the lifestyles of the children, and to do this they work closely with the families and the children both in their homes and in the community. CanDo4Kids is about highlighting the potential of children instead of focusing on their disability, and it represents a proactive and collective community approach. The philosophy is simple: 'can-do' attitudes really do make things happen. Its mission is to provide therapy, recreation, technology, training and support services to children and young people who have a sensory impairment, including those who have a communication disorder, and to help their families across South Australia. They receive support to become as independent as

possible and to have greater access to education and employment so that they can achieve an enhanced quality of life.

While the organisation has been based in the southern area most of the time, its services have now become available to a wider group of children and their families across the state, and the premises at Modbury North will enable a much wider group of families and children to benefit from some of the services. Those services include the early intervention babies' group and a base for the assistive technology team to visit schools in the area to assist children in their own classrooms.

I would like to thank Paul Flynn, CEO of Townsend House, for welcoming me to the opening, along with my very good friend Jim Douglas, who is the deputy chair and who introduced me to treasurer Michael Wall as well as Dr Carolyn Palmer, chair of Townsend House. Her work is widely recognised, and I commend her and all the Townsend House people for the great support they give people with special needs in the area. Families in the north-east will now not have such great distances to travel.

Time expired.

STIRLING DEPOT SITE

Mrs REDMOND (Heysen): I rise today to canvass an issue that I have actually been pursuing for more than 20 years now, because I remember going to see my predecessor David Wotton, when he was member for Heysen, over the issue of the old depot site in Stirling. This piece of land, as the name might suggest, was the depot site for the then Stirling Council, but that was moved some 25 years ago to a new location. This several-acre piece of property sits right behind the shops in Stirling. It has on it the Stirling CFS, the Stirling kindergarten and, adjacent, the Stirling Community Theatre, but a large part of the land remains vacant. Indeed, one of my staff members has been parking on it regularly during the disruption of works being done on the property, because the office that I occupy in Stirling backs onto this property.

The difficulty that has arisen is that this land is owned by the council. It is then occupied by the Stirling CFS, which used to be under the council's auspice; the Stirling kindergarten, which of course is under the state government department; and, as I said adjacent is the Stirling theatre, a community theatre in a council-owned property. The council wants to spend a fairly significant amount of money in building a new library for the citizens of the district, and I applaud that decision. I am very supportive of the need for a library. We have a very high reading population, a highly educated population and, indeed, I remember when I was on the council many years ago, we used to consistently get reports about the fact that we had more borrowings per head of population than just about anywhere else in the nation.

I fully support and endorse the council's initiative in wanting to redevelop the library but, in order to do that, it wants to sell some property to make a significant part of the money available to fund that redevelopment. At the moment we are in a situation where there is a possibility that the Stirling CFS might have to move and there is also some question mark hanging over the head of the Stirling kindergarten. It is not likely to have to move, but the kindergarten has the ownership of the land on which the building is situated whilst it occupies part of this council-owned land as its playground. Obviously, if the council does not come to some agreement with it about that, a kindergarten without any area for the children to play in does become problematic.

I am not suggesting that anyone is in the wrong here. What I want to urge the parties to do is think openly and constructively about how best to resolve it, because I am personally convinced that we can have a win-win-win situation. At the moment, the Stirling CFS is very keen to stay where it is located. As I said, it is right in the heart of Stirling, immediately behind the shops. That gives its members very good access. It provides not just the ordinary CFS protection but also runs a road crash rescue, because it is virtually adjacent to the freeway and has a number of other quite tricky Hills roads, and it also does HAZCHEM, or hazardous materials. Stirling is a good, strong CFS with a huge support base in the area, and its members who come to that Stirling CFS can get there in a very short time.

If the station is relocated, it will lose much of the benefit it has in terms of the response times of the volunteers who provide that service to the community. I know that the member for Napier is probably aware of where Stirling CFS is, as would be a number of people. The CFS location is crucial to the area. In addition, as I said, there is this little problem with the Stirling kindergarten. The CFS and the kindergarten actually co-exist quite safely and peacefully beside each other, and the other benefit is that, with the theatre next door—and we have both a very well supported Hills musical group and Stirling Community Theatre—often parking becomes an issue. At rehearsal times, and so on, people park in the area where the land I am talking about is located.

As I said, there is still quite an area of land which is completely unoccupied and which has remained so for some 25 years. It is my belief that there are many uses to which that land could be put that would allow the Stirling CFS to stay where it is, allow the kindergarten to stay where it is and probably acquire the extra little bit of land to secure its ownership of the playground, and allow the parking to continue around the theatre.

Time expired.

MANUFACTURING INDUSTRY

Mr O'BRIEN (Napier): While the mineral and resources boom obviously is a good thing for South Australia and holds out the prospect of considerable wealth for the state well into the future, it poses a threat to other industries, particularly manufacturing. Unless other sectors of the economy are well managed, we risk falling victim to 'the Dutch disease'. The Dutch disease is an economic concept that explains how an increase in revenue from natural resources can raise the exchange rate, making manufactured products less competitive on global markets. The term was coined in 1977 by *The Economist* magazine to explain the decline in Dutch manufacturing following the discovery of offshore natural gas in the 1960s.

Australia has contracted far more serious doses of the Dutch disease than the Dutch ever did. Starting in the late 19th century, Australian history is scattered with badly managed cycles of growth built on natural resources followed by serious economic downturn. We are presently riding what some economists have labelled a super cycle of growth. Rapid industrialisation in China and India has generated high commodity prices over a sustained period. The mining boom and the consequently high value of the Australian dollar have, however, created a difficult environment for South Australian manufacturers. It would be grossly negligent to simply accept the long-term contraction of the local manufacturing industry

and rely on the uncertain fluctuations of the minerals market to secure our future prosperity.

The manufacturing industry in South Australia is vital to our long-term prosperity. Manufacturing accounted for 16.3 per cent of gross state product and 12.5 per cent of total employment in the year 2004-05. In the 12 months to January 2006, South Australian manufacturers directly exported $5.2 billion worth of goods, which is 64 per cent (or two-thirds) of total state exports.

The importance of a manufacturing industry is particularly felt in northern Adelaide. According to the last Census, conducted in 2001, 19.3 per cent of the work force in the area was employed in manufacturing. This government is helping to secure a future for the manufacturing industry by creating the conditions that have made Adelaide one of the most cost competitive cities in the world. According to the KPMG-based survey that was widely reported last Thursday, we are in the top three. In addition, winning the air warfare destroyer contract will have an enormous long-term benefit. The contract secures a domestic market for the manufacturing industry while the current international climate is so unfavourable to our manufacturers. If manufacturing can be protected today and smart investments are made in its future, we will have a high-tech and highly skilled industry, which will be well poised to boom when the value of the Australian dollar finally drops and falls back into a more established zone.

We will never compete effectively with China and India in labour intensive, low value added manufactured goods. We must continue to expand into high skilled, high technology, knowledge intensive areas of production such as naval technology. We cannot do this without a highly skilled and trained work force. The $79.3 million package of commitments to high school reforms and 10 new high-tech trade schools announced at the election is a significant step in the right direction. Unfortunately, the nature of our fiscal relations with the commonwealth government limits the action that we as a state can take to secure a highly skilled work force. At a time when Australia should be investing in education and high end research to avoid falling victim to the Dutch disease, the federal government has allowed us to become the only nation in the OECD to experience a decline in investment in research and innovation as a percentage of GDP.

During the Howard decade, government outlays on higher education institutions have fallen by 10.4 per cent and untied government funding has fallen 18.6 per cent. Perhaps most alarmingly, staff-student ratios have increased by 33 per cent. The current super cycle of growth will not last indefinitely, because either demand will slow or supply will increase to match demand.

Time expired.

SPENT CONVICTIONS BILL

The Hon. R.B. SUCH (Fisher) obtained leave and introduced a bill for an act to encourage the rehabilitation of offenders by providing that certain convictions will become spent on completion of a period of crime-free behaviour; and for other purposes. Read a first time.

The Hon. R.B. SUCH: I move:

That this bill be now read a second time.

I have been passionate about this issue for quite a while. I am sure that members have had electors come to them and say that, in their early years (usually), they did something which resulted in their coming into contact with police and the court system but which was of a very minor nature. Nevertheless, usually they got some sort of conviction, which has remained as a stain on their name and character throughout their whole life, and I will give the house some examples. I point out (and it will be clear when I include the explanation of clauses) that we are not talking about serious crime.

We are not talking about rape, murder or bank robbery. We are talking, for example, about one lad who was urinating in a park at midnight at a seaside suburb. We do not say that is desirable behaviour, but it hardly puts that person in the category of a hardened criminal. One woman came to me and said that, when she was a youngster, she altered the ticket on an item at Harris Scarfe. It was wrong, you should not do it, but it was not really in the category of major crime. However, that episode and the subsequent court appearance has been on her character ever since that time. In fact, that person has not been able to visit her daughter in America. If you have ever applied to go to the United States you must declare whether or not you have any convictions and, if you have, the chances are that you will not be allowed to enter America. The consequences are quite serious.

The most tragic case I came across was a lad who was approximately 25 years of age. When he was a teenager he worked for a small business. During his first or second week at work, the boss said, 'I want you to take the credit card and buy a few things,' which he did. Unfortunately, he also bought something small for himself, which is wrong. He ended up getting a conviction, and obviously that is a record against his name. At the time he was about 18 or 19. He should not have done it. I do not condone it. Anyway, later, when he was about 25, he wanted to do something with his life and become a security guard. He did the course. Basically, he came top of the course and he was offered a job by a security firm. However, when he registered as a security guard he was declined on the basis that he had this conviction.

That lad, who was an outstanding young lad, hanged himself. He took his life. He was a very active member of the Young Christian Workers. He was a very decent lad. He realised that he should not have done what he did when he was 18 or 19. However, when he was 25, having topped the course as a security guard and been offered a job (I think with Chubb), he felt there was no point in living because he would never be able to get a start in life. The experience of this lad taking his life has destroyed that family. I do not think that anyone in this place would suggest that the penalty for what he did should result in him hanging himself, but that is what happened.

I can tell members that there are many people out in the community who are in churches, in other organisations, who have come to me and said, 'Look, I did something silly years ago. I wish I hadn't and I would like to start anew, have a clean slate, a fresh start.' I have discussed this matter with various colleagues on both sides of the house over time, and I believe there is a feeling afoot that, if someone commits a minor offence and has not reoffended, we should make a provision—as is the case in some other states and the commonwealth—to wipe that off and start again.

This bill has safeguards. First, I reinforce the point that we are talking about minor offences, and that is defined in the bill, and members can read that for themselves. We are not talking about serious things. We are not talking about paedophilia. We are not talking about that level of crime. We are talking about very minor offences which, as I say, are spelt out in the bill, where the penalties are at the bottom end of the scale.

The terms under which the offence can be spent or struck off vary. In the bill, members will see that if a person was found guilty of an offence without a conviction being recorded, but has not reoffended within two years, that could be regarded as a spent conviction, even though technically they were not actually convicted. It seems a strange logic. I am not sure whether members realise this, but, even if you do not get a conviction, you still get a record. Some people in the community think that no conviction recorded means there is no record. That is not true. You do have a record and the record is kept. Even though a conviction is not recorded, in effect, you still have a record against your name.

The other provisions under the prescribed period mean that, if a person was under 18 at the time they committed a minor offence, after five years of no criminal activity it could be struck off, or, if the person was an adult at the time, they have to wait 10 years to have it struck off. I think that is reasonable because, with juveniles, the system takes into account their age. Therefore, in my bill there is provision for taking into account someone's age at the time they carried out that minor breaking of the law.

The bill would enable people who comply with the requirements to legally, lawfully and honestly say they do not have a conviction, because it has been quashed, struck off or spent. That would bring a lot of comfort and pleasure to many people because, as I said earlier, a lot of people have come to me saying they are embarrassed at what they did some years ago—20, 30, 40 years ago—and they do not want to tell their grandchildren that they have a conviction, even for a minor offence.

The bill contains a provision that deals with grey areas, because there will be situations where someone did something that could be considered to be in a grey area. For example, on paper and according to law, a person might be involved in an altercation outside the pub after a footy match, and I am sure it happens in country towns and in the city. It is not in the same category as belting an old lady with an iron bar to rob her of money but, nevertheless, it involves an element of assault. If there is any doubt in relation to someone's behaviour and their earlier criminal conviction, they could apply to the District Court to have the matter considered by a judge, to see whether they qualify to have that conviction, that record, set aside.

In doing so, the court must have regard to a whole range of matters, and, under my bill, the police are specifically entitled to be at the hearing of the application. So, if the police object, they can make that known. In determining whether to grant an application for a spent conviction order, the court must have regard to the following—and this is the grey area, these are not the people who come into the clear-cut categories that I outlined before. The court would have to look at the length and nature of the sentence imposed in respect of conviction; the length of time since the conviction was incurred; and whether the conviction prevents, or may prevent, the applicant from engaging in a particular profession, trade or business, or in particular employment. The court would have to look at all the circumstances of the applicant, including at the time of the commission of the offence, and at the time of the application. The court would also have to look at the nature and seriousness of the offence, and whether there is any public interest to be served in not making an order. So, that is the mechanism to deal with a situation where there can be, what you might call, a grey area, and that is spelt out in the bill.

I appeal to members to look at this issue as a question of justice in the full and true sense of the term. Other jurisdictions already do this. Why should someone who did something minor, something silly, often when they were a teenager, carry that throughout their whole life and be prevented from being, in effect, a full citizen and from travelling overseas to certain countries? Why inflict that on them when they have already been punished under our system? I believe that we should be looking at this as a question of justice in the true sense, and I trust that we will never have a situation again where someone, like the young lad I referred to before, was forced to take his life because he felt that he had nothing in front of him for the rest of his life, and could never get a job that he wanted or was good at because of something he did that was minor and silly when he was 18 or 19.

I appeal to members to look at this matter in detail, but also to look at their own constituency. I am sure that they have had people come to them saying, 'I would like spent convictions legislation introduced in South Australia so that I can have a clean slate, I can have a second chance, I can start again.' I know that in the past people have said, 'It's living a lie,' but I think a system of justice needs to be able to not necessarily forgive and forget but give people the opportunity to get on with their life and not carry around with them an extra burden, which is over and above the punishment they have already incurred.

I seek leave to insert the explanation of clauses in *Hansard* without reading it.

Leave granted.

EXPLANATION OF CLAUSES

1—Short title

This clause is formal.

2—Commencement

This clause provides for commencement of the measure 3 months after assent.

3—Interpretation

This clause defines certain terms used in the measure. In particular ***minor offence*** is defined as being any offence other than an offence for which the convicted person was sentenced to imprisonment for an indeterminate term, or for a term exceeding 3 months (whether or not the sentence was suspended), or was ordered to pay a fine of more than $2 500.

4—Application of Act

This clause provides that the measure applies in relation to minor offences whether committed before or after commencement of the measure and whether committed here or interstate.

5—Spent convictions

This clause allows for convictions for minor offences to become spent on completion of a specified "crime free" period. This process will happen automatically except in relation to a conviction for an offence against the person, or an offence of a kind prescribed by regulation, where the convicted person was sentenced to a term of imprisonment in respect of the offence. In this category of cases, the conviction will not be considered as spent unless the District Court confirms that the conviction is spent. The Schedule to the Bill sets out the provisions relating to this court proceeding.

The necessary "crime free" period is generally 10 years, except where the offence was committed by a person who was under 18 at the time (in which case the necessary

period is 5 years) or where the person was found guilty without a conviction actually being recorded (in which case the necessary period is only 2 years).

6—Information about spent convictions

This clause provides that a person cannot be asked for, or required to furnish, information concerning a spent conviction and deems any request for, or requirement to furnish, information about convictions to not include request for, or requirement to furnish, information about spent convictions.

7—Proceedings before courts and tribunals

This clause provides that the limitations on access to information about spent convictions in clause 6 of the measure do not apply in relation to proceedings before a court or tribunal (although if such information is admitted in court or tribunal proceedings, the court or tribunal must attempt to avoid, or minimise, publication of that evidence).

8—Offence to disclose spent conviction

This clause provides that it is an offence to knowingly or recklessly disclose a spent conviction except in circumstances specified in subclause (2). The maximum penalty for contravention of the section is, for a first offence, a fine of $10 000 or, for a subsequent offence, a fine of $20 000 or imprisonment for 4 years.

9—Prosecutions

A prosecution for an offence against clause 8 may only be commenced with the written consent of the Attorney-General.

10—Regulations

This clause gives a power to make regulations for the purposes of the measure, including the power to, by regulation, exempt persons or specify circumstances in which the Act (or provisions of the Act) would not apply.

Schedule 1—Provisions relating to proceedings for spent conviction orders

The Schedule sets out the procedures to be followed where a person applies to the District Court (in accordance with clause 5) for an order confirming that a conviction is spent. The Commissioner of Police is made a party to such proceedings. The Schedule provides that, in deciding whether or not to make an order, the Court must have regard to—

- the length and nature of the sentence imposed in respect of the conviction;
- the length of time since the conviction was incurred;
- whether the conviction prevents or may prevent the applicant from engaging in a particular profession, trade or business or in a particular employment;
- all the circumstances of the applicant, including the circumstances of the applicant at the time of the commission of the offence and at the time of the application;
- the nature and seriousness of the offence;
- whether there is any public interest to be served in not making an order.

Mrs GERAGHTY secured the adjournment of the debate.

LOCAL GOVERNMENT (PUBLIC PLACE AMENITY) AMENDMENT BILL

The Hon. R.B. SUCH (Fisher) obtained leave and introduced a bill for an act to amend the Local Government Act 1999. Read a first time.

The Hon. R.B. SUCH: I move:

That this bill be now read a second time.

This is a very short bill which, in effect, allows a council to plant vegetation—trees, shrubs, plants—in large public spaces which have not been so planted in the past. It would enable a council to improve the amenity of an area and enhance public enjoyment. For example, it could be a car park for a shopping centre. In so doing, the council is not allowed to detract from the owner's or occupier's use of the public place. So, the council cannot say, 'You have to do this,' and, therefore, negate the purpose of that space, but it could and would be able to say, 'Look, you have this huge area of asphalt car park, and the people who live in this area, as represented by our council, would like to see some shade trees or some vegetation planted there appropriately, still allowing car parking.' This measure would allow the council to do that, and that is the reason for it.

If members look around Adelaide and elsewhere, they will see that there are many what might be described as pretty ugly public spaces, car parking spaces in particular, and there is nothing that a council or the government can do to get that area made attractive, whether it be for the purpose of shade in summer, or just making the area look nice. I do not want to name particular car parks, but I am sure members can think of some—and we are now more enlightened about these things—where historically there was never any attempt and no requirement put on the development application to plant up a car park in a way which would enhance the amenity of the area. I do not see it as a very drastic requirement or opportunity. As I have said, the bill specifically provides that you are not allowed to detract from the owner's or occupier's use of the public place. You cannot say, 'Look, we want your car park planted up as a forest,' because, obviously, they would not be able to use it as a car park. That is the essence of the bill. It is fairly straightforward. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short Title

2—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Local Government Act 1999*

3—Amendment of section 254—Power to make orders

This clause amends section 254 of the Act (a provision that allows a council to order a person to do or to refrain from doing certain things in certain circumstances) to allow a council to order an owner or occupier of a public place that exceeds the prescribed area to plant and maintain specified types of trees or other vegetation in specified areas if to do so;

(a) would substantially improve the amenity of the public place or would enhance the public's enjoyment of the public place; and

(b) would not substantially detract from the owner's or occupier's use of the public place.

Mr GOLDSWORTHY secured the adjournment of the debate.

The Hon. R.B. SUCH: Madam Deputy Speaker, I draw your attention to the state of the house.

A quorum having been formed:

ROAD TRAFFIC (COUNCIL SPEED ZONES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 7 June. Page 446.)

Mr VENNING (Schubert): I thank the member for Fisher for clarifying a matter for me. I certainly support this bill. I think it is an absolute nonsense that a council or councils across the state can implement a 40 km/h speed regime without having it ratified by a state organisation. This is a favourite subject of mine. I find the confusion across the state about our current speed limit regime a disgrace—and I even include the police in this. I do not think it is fair that, as motorists drive from council to council across the state, the

speed limits are all over the place. In the old days, we had a straight 60 km/h speed limit around the towns and a 110 km/h speed limit on the open highway—or 35 miles an hour in the towns and 60 miles an hour on the open highway even further back—and that lasted for many years.

As I said in my grievance speech this afternoon, I find it ridiculous that today we have modern cars with disc brakes, tuned suspensions and radial tyres and here we are decreasing speed limits. It is a nonsense, and I think it is high time that people took a leadership position, particularly as we have more than one mayor in this place, and I was a councillor myself for 10 years. How do councils justify it, particularly the old Unley council? The Unley council was the first to implement the 40 km/h speed limit. It is a nonsense. It really makes me cross to see the attitude of some people. They want everyone to drive in their street at 40 km/h, and then they want to race past everyone else's street at 80 km/h. Well, it is a nonsense.

We really do need some commonsense in this matter, and I really believe we have to start giving guidance. I believe all these speed limits should be brought before a review committee, and I think that is what the member for Fisher has in mind. It annoys me when driving on the open road—as the new member for Light would be aware—north of Gawler, for example, where roads like the Gomersal Road is 90 km/h and other roads are 80 km/h and 100 km/h. I got fined going into Gawler about 18 months ago, because I came out of the Gawler racecourse onto the main road to go back to the city, but I did not enter there as I had gone in through the other entrance, and I assumed it had a 60 km/h speed limit. However, it had a 50 km/h speed limit. I got fined and lost demerit points. But, understand this, if the mayor goes there now, he would see that it has been changed to 60 km/h. I copped it because I had come across—

The Hon. M.J. Atkinson: You won't be getting a park.

Mr VENNING: No; I am more worried about the points and, as time goes by, my points drop off—thank goodness for that, as did the previous motion. With the minister in here, and I appreciate that, I think it is an absolute farce that we can allow what is happening out there at the moment. You only have to drive from here past the airport to the sea to see all the changes in speed limits. Look at the proliferation of speed limit signs. We have all these signs all over the city indicating how fast it is. It is a joke, and I think the police ought to have something to say about it. It is not fair when they pick up somebody who thinks they are in a 60 km/h zone when they should be doing 50 km/h. We saw the article in *The Sunday Mail* on the weekend. It is causing everybody to drive at the default low speed limit everywhere in the city. Everybody is tootling around, and you wonder why we get congestion. I notice that the minister looks up, and he may or may not be listening. Everyone now drives around this city at about 50 km/h or less. It is now the default speed limit in this city. Even past the airport where the speed limit was 80 km/h, it is now 60 km/h, and everybody goes past there at 50 km/h because they are not sure, so everybody drives around the city at one speed—50 km/h.

When you follow these vehicles, you wonder about road rage. I am one of them. I am always in a hurry to get here and, when I find that someone is doing 45 km/h, I get a bit aggressive, because it makes me cross. You cannot blame these people, because they are paranoid about paying a fine and, in my instance, even more paranoid of losing demerit points for speeding. I think that the honourable member's motion has merit, even though I wonder why he moves so many of them. Let's have some sense in the regime of our speed limits. I think that all speed limits should now be reviewed. If you go along a certain road, no way can you anticipate what the speed limit is. If you have missed the signpost, you have no idea. For instance, take the old West Beach Road extension that goes out to Tapleys Hill Road. Sporting fields are on one side and houses on the other. It was an 80 km/h zone but, in a matter of six months, it was taken down to 60 km/h, and guess what it is now? It is 50 km/h, and there are no houses at all on one side of the road. In fact, in my electorate, Mount Torrens had a 50 km/h speed limit one way and 60 km/h the other.

This is a sick joke which affects us all; we all have to abide by the laws that we make in this place. It is high time we grasped this and said to the councils, 'You can make recommendations about your speed limits, but it will be a central body set up by the government which will say what the speed limit is.' You will never please everybody; I know that. I have people ringing me up, asking me about speed zones. I say, 'No, just because you want to have a 50 km/h zone outside your place, these are the town verges and, quite clearly, it should be 50 km/h and 60 km/h inside the town and, outside the town, it ought to be 110 km/h.' I have some sympathy with this motion and I look forward to hearing what our shadow minister has to say in a moment. Surely, it is time that we ended this nonsense that is the speed zone regime here in South Australia. I support the bill.

Mr HAMILTON-SMITH (Waite): I indicate that, although the opposition has some sympathy for the arguments put by the member, we will not be supporting the measure should it come to a vote. Instead, the opposition will look to the government to ascertain the government's position. The measure flows from the member's desire to see the road rules and speed limits simplified. He makes the point that 40 km/h zones were introduced prior to this government's introduction of 50 km/h zones at a time when only 60 km/h zones were available. He makes the point that 40 km/h zones were introduced as a safety measure with the best interests of the public at heart but, since the 50 km/h zone proclamation by this government, he feels that the 40 km/h zone should not be enacted without at least—

The Hon. R.B. Such: Justification.

Mr HAMILTON-SMITH: —justification to the minister of the day and being sanctioned. The point that I make is that I think the government has the power, without this bill, to rule out 40 km/h zones, should it so choose. It has the power to pass legislation on this subject. It could do something about the mess it has created, if it chose to.

I think that there is an argument that having blanket 50 km/h zones obviates the need for 40 km/h zones. Certainly, it has created some problems in suburbs where, in one street, residents have a 40 km/h zone yet, in other streets, they have 50 km/h zones and, in a third street, there is a 60 km/h zone all within the one suburb. The effect is to move the traffic from one street to the next. The people who have 40 km/h zones are delighted because the traffic has slowed in their street, but the problem has just been moved on to the next street, and so it continues. It is a mess of the government's design, to be frank.

Members interjecting:

Mr HAMILTON-SMITH: Well, it had an opportunity to rationalise this and withdraw 40 kilometre zones when it introduced 50 kilometre zones. It chose not to do it basically, I think, because it was too difficult for the government to

resolve the matter. So they have left it as is—40, 50 and 60 kilometre zones.

It is a problem that needs to be rationalised and sorted out from the position of government and we will look at the problem when we are in government; however, it is up to this government to take some action on it now. The opposition does have some sympathy for the member's argument but it does not believe that this bill, in this form, is the best way to sort out the mess. A better way would be for the government to review the whole package of legislation it introduced and take action to rationalise and sort out the matter. We look to the government now to sort out the mess it has created by introducing 50 kilometre zones; we are not going to solve the government's problems for it, let me tell you. The government has the resources and the good offices to consult with local government, with communities and with police and sort out this mess.

We will not, therefore, support the member's bill because we think it is simply superfluous. Basically, it says to the government, 'Exercise the power you already have to sort out the mess.' The government does not need this bill in order to do that, and I think the honourable member could have achieved his goal by moving a motion calling on the government to take action. That may have been a better way to do it. So we do understand where the honourable member is coming from, but we do not like the bill and will not be supporting it. However, we will wait, with bated breath and anticipation, for a pearl of leadership and guidance from the government on how on earth we are going to sort out the mess that the introduction of 50 kilometre zones has imposed upon long-suffering councils and communities in the Adelaide district, in particular. It is a mess, and it is one of the government's making.

As my good friend and colleague the member for Schubert has mentioned, a number of us on this side understand where the honourable member is coming from but this is not the best way to sort out the problem. I look forward to the minister's contribution so that he can enlighten us as to a way out of the quagmire he, or perhaps his predecessor, has created.

Mr GOLDSWORTHY (Kavel): I too am pleased to be able to make a contribution to the debate, and I support my colleagues in opposing this bill. I want to give the house a couple of examples of what a shambles this whole initiative of introducing a 50 kilometre speed zone has been. I have liaised extensively with the two local councils in my electorate on this matter and they have given me some background on how this was introduced, I suppose, three or four years ago. They were really given no time to properly assess the proposal. An edict came out of the then minister's office and the transport department saying that they had, I think, about three or four weeks to identify the roads that they wanted to remain at 60 kilometres an hour. The member for Goyder may be able to shine some more accurate light on this, because he was directly involved in it in his previous career, but my recollection is that councils were given a very short period of time to identify the roads that they wanted to remain at 60 kilometres an hour. For the rest it was just a blanket change; those roads that had not been identified were changed to 50 kilometres an hour.

Now, the application of a 50 kilometres per hour speed zone was just totally inappropriate for some of those roads, and I know that some glaring examples have been highlighted in the house over the last three or four years in that regard. From my own experience as a local member, I know that trying to get these speed limits changed back to some commonsense level—that is, getting them changed from 50 kilometres an hour to 60—is nigh on impossible. You go to the council and they say, 'No, that is the Department for Transport.' You go to the minister or the transport department and they say that it is local government. It is a complete shambles. Digging down through it all and getting some sense out of both the minister's office (which is pretty minimal) and the local councils, you find a way to progress through this, but it has taken me the best part of three years to try to get a 50 kilometre per hour speed sign moved 400 metres closer to a township. I am talking about a 50 kilometre an hour speed zone that commenced on the outskirts of the Woodside township on the Woodside to Nairne road.

It was 80 km/h previously through that part, then the 60 km/h zone started pretty well where the residential development commenced. What happened was that they took the 60 km/h sign away and put up a 50 km/h sign where the 80 kilometres were, so motorists have to reduce their speed right down to 50 km/h and, as the member for Schubert described, have to tootle along at 50 km/h for the best part of 500 metres, half a kilometre, before being anywhere near any semblance of a township. I reckon I worked on this issue for three years. I have highlighted it in the house in grievance debates and addresses in reply, I have asked questions, I've written to the minister, highlighted it in the local media, and it is only two or three weeks ago after all this work—you actually stop knocking your head against a brick wall after a while because it hurts but, when the pain goes away, you start doing it again.

Finally, after a whole protracted, unnecessary process, we finally have this sign and the commencement of the 50 km/h zone moved closer to the township, although I think it could be even closer than it is. This is just an example of how hard it is to get some semblance of commonsense into this whole initiative. I am totally with the member for Schubert and my colleague the member for Waite that there has to be some sense, some practical application in this whole issue.

Mr Hamilton-Smith: When we are in government, we'll fix it straight away.

Mr GOLDSWORTHY: That is exactly right: when we are in government we will fix it. That is a very good point that the member for Waite raises. That was actually one of my campaign platforms, some consistency in the application of speed limits. That is what I took out into the campaign, and my primary vote increased in 2002. It just goes to show that this whole issue strikes a real chord with the community. My electoral office receives regular calls from frustrated motorists as to how silly the siting of some of these 50 km/h zones are. Just by the look on his face I know that the Minister for Transport agrees with me: I just wish that his department would act a little more hastily and get some sense into the whole thing.

The Hon. P.F. CONLON (Minister for Transport): The government cannot accept the private member's bill for a number of reasons, but principally, as has been canvassed by some speakers, because it is not necessary. Most of the matters sought in the bill are existing powers of the government. However, I do need to address some of the comments, particularly the comment from the shadow spokesperson. We see some weasel words and some side-stepping, but I think this one takes the cake. The honourable member is not going to support this but he wants the government to clean up the mess we have created. What he will not say and what I urge

him to do, by interjection or otherwise, is get on the record what he does want. Does he want, as he seems to suggest, to remove 40 km/h zones? That is certainly the strong impression that one would get from this debate.

If it is, perhaps he would like to go and share that view with the many residents in his electorate who enjoy, and I use that word advisedly, 40 km/h zones. Is that the inconsistency he wants? He wants me to be strong; he wants me to act. Does he want me to go and tell those people that they cannot have a 40 km/h zone? He is saying nothing. He is not even moving, in case he gives some indication. Is it then the 50 km/h zone that he wants removed? And what does he want? Does he want it made 40 or does he want it made 60? Again, no indication. I am going to be quite happy to send out his and my contributions to the debate out to his electorate.

I will not act to take away the 40 km/h zones in the member for Waite's electorate. He may not go on the record saying that, but I will, and I will send that out to them. I will send out both contributions and make it absolutely clear. I will give him one more chance, if he wants to give an indication of whether he wants me to protect or remove those 40 km/h zones. Studied silence.

Mr Hamilton-Smith: Interjections are out of order.

The Hon. P.F. CONLON: He has just interjected to tell me that interjections are out of order! Apparently, some interjections are not out of order, just those that might get him in trouble with his electorate. They are the ones that are out of order with the member for Waite. When you get up and make very cheap points, you have to understand that someone will respond, and the response is this: there is absolutely no doubt that lower speed limits increase safety. The evidence is overwhelming.

Members interjecting:

The Hon. P.F. CONLON: Five kilometres an hour: there is the first suggestion we have had! We want to cure the inconsistency of the member for Waite by making everyone go at five kilometres per hour. Of course, sitting directly behind him on the opposition benches is old leadfoot Gunny, who wants to go at 130 kilometres per hour! If you think there is a bit of inconsistency in speed laws, try the inconsistency of the approach of the opposition.

The longstanding, good member for Fisher made a very good point: speed limits are always a trade-off between convenience and safety. However, the inescapable truth is that lower speed limits are safer. The reason why I will not do what the member for Waite invited me to do—that is, remove 40 km/h speed limits—is because they are safer. I could not live with my conscience if, having raised the speed limit to 50 km/h, there was an accident. If people want to call me a coward, so be it, but I could not live with my conscience and, therefore, I will not do it.

However, I accept that we need to be as active as we can in dealing with councils to reach agreement on consistency of approach. I accept that more can be done, and I encourage the department to do that. I believe the best way to approach this matter is to talk to councils to try and create more consistency. However, that does not mean that I will be going out to Unley council, in particular (and I know Mitcham has a few), and removing all its 40 km/h speed zones. I do not think the people at Concordia College or the adjoining streets or the childcare centre around the corner in that very pleasant suburb of Highgate would agree with me.

To be frank, the member for Waite said that when they are back in government they will sort it out. All I can say is: exercise a lot, keep your cholesterol down and watch your blood pressure, because you will have to live a long time, on current performances, to be in government. However, assuming that there is a bit of longevity in the family, they may get there and be in government again. One thing I will bet is that, even though the member has encouraged me to remove the 40 km/h speed limits in his electorate, he will not be acting to do so, because I suspect it may have somewhat of an impact on his electoral standing.

I can understand the position of the member for Fisher. Apparently, I am the only person in this chamber who is not allowed to have a difference with the department of transport: I am the minister. That appears to be the history of the last few weeks. I will leave it go at that. But I can understand. I receive more letters from MPs about the decisions of the department of transport than about any other area. One of the first things I did as a minister was to make sure it was clearly understood that it was my view that the speed limits should be set by objective standards by experts and not by politicians. I made it very clear, and I stand by that. If the issue is the performance of those officers and that it should improve, as I said, I think the only one who is not allowed to disagree with their performance is me.

However, I accept that we should always strive to do better. I would like to do more with councils to achieve better consistency, but I will not be overriding their existing rights and what happens now, because they will not thank me. I will give the member for Waite one last chance. Does he want me to sort out the mess by removing the 40 km/h speed limits? No, I did not think so. Is it the 50 km/h speed limit that should go? No: stony silence.

They talk about the mess: here is part of their mess. Since the introduction of the 50 km/h speed limit on those roads there has been a 22 per cent reduction in casualty crashes. Let us have more of that mess, shall we? The tragedy of road accidents and road deaths is just horrific. A 22 per cent reduction in casualty crashes on those roads allowed the Motor Accident Commission to reduce (not increase) for the first time in years compulsory third party premiums. This must surely persuade people. That is the mess that they lament. This is how good the opposition is. They reckon it is a mess (which seems to be an improvement in road safety and a lowering of compulsory third party premiums), but they will not say what we should do to clear up the inconsistency. That is because all they want to do is get a cheap shot in here and then slide back out to their electorates and say something different. I am going to say the same thing in here that I say in my electorate. And guess what: I am going to say the same thing in here as I say in the member for Waite's electorate, and I cannot wait to get out and do it.

The Hon. R.B. SUCH (Fisher): I have enjoyed listening to the contributions of members, and I realise that the chance of this measure getting through is not all that great. I will just make a few points. The minister indicated that it is a question of working with councils, and I trust that he will be active in that regard. My proposal does not prohibit 40 km/h speed limits on streets or in areas: it requires a council to have a street assessed properly. I have spoken informally with the minister, and he believes that professional engineers undertook an assessment. I do not believe that was the case. I think it was done on a very generous basis by councils putting forward areas—or blocks—and saying, 'We would like this to be a 40 km/h zone'.

If one puts oneself in the position of the officers in the department of transport, one can see that they have to work

and live with councils, so they do not want to get them off side. However, sometimes the relationship between those two areas is not necessarily in the interests of the wider public community. I can name some intersections where traffic lights are justified but will never be installed, because the council does not want anyone being encouraged into a council road. So, what happens? We get the absolute hypocrisy and talk about road safety, yet some councils will not allow and will not support the department of transport putting in traffic lights because they do not want people travelling up those streets. I could name some intersections at Millswood or Blackwood where people's lives are put at risk every day, because the council works sweetly with the department of transport.

The bill does not prohibit 40 km/h: it says that the 40 km/h speed limit has to be justified. One of the councillors at the City of Mitcham said to me, 'Look, if you don't work or live in my area, which has a 40 km/h limit, you have no right to be there.' I said, 'Well, you have no right to come into my street,' which happens to have a 50 km/h limit. It was a residential street, but it was turned into an arterial road by the City of Mitcham, and, to make matters worse, no provision was made for parking. More than half the people who live in the street cannot park anywhere. No provision whatsoever has been made for parking, even though we used to be able to do it.

People in some councils, such as the City of Mitcham, suggest that the people who have the 40 km/h limit be asked whether they want it. Of course they want it. It is like asking someone who gets a pay rise, 'Do you want it?' Of course you want it; you will keep it. If you intend to do it properly, ask all the people in the City of Mitcham, 'Do you want a 40 km/h limit?' You will get different answers. To its credit, the City of Onkaparinga has removed some of the 40 km/h areas, because it asked its ratepayers, 'Do you want the 40 km/h limit?' However, if you ask only those people who have it, they will say yes. Of course they will. If I have a choice, I will say that I want 5 km/h in my street—or 10 km/h or 20 km/h. Why can I not have that? Why is the 40 km/h limit only for certain people? Perhaps we can go down the pathway of South Africa. We can have traffic apartheid: you can do 40 km/h here and 50 km/h there, but you cannot have it for everyone.

If it is good enough for some, why is it not good enough for everyone? If it is such a fantastic thing in the urban area, why do we not all have 40 km/h limits? Research by Murray Young and Associates and others shows that the 40 km/h limit in Unley is not what it is claimed to be, because many people do not observe it. The worst offenders are the people who live in the City of Unley. A study has been done to show that the people who offend against the 40 km/h limit are the residents of Unley. It is like motherhood and apple pie: people will cling to it because it makes them feel good or it gives them the right sensation in the right spot.

The minister mentioned child-care centres. We could still have the 40 km/h limit in that instance. My bill would not prevent that. My bill specifically provides that, where appropriate, it can be allowed. I can sniff the wind when there is not overwhelming support for something. In fact, probably there will be only one vote on this, but I still think that the intention is correct. I think that simplicity is the best way to encourage road safety. The 50 km/h limit works well. It should be the standard, even though some roads should never have been allocated a 50 km/h limit, and Sir Lewis Cohen Avenue is one and only magpies live there. The council and the road transport department in their wisdom chose to make that road a 50 km/h zone when it should be 60 km/h, like the others parallel to it through the Parklands. Anyway, I rest my case. I may not get a victory but, ultimately, it will be a moral one.

Bill negatived.

MINISTER'S REMARKS

The Hon. G.M. GUNN (Stuart): Mr Speaker, I claim to have been grossly misrepresented by the Minister for Transport, and I seek leave to make a personal explanation.

Leave granted.

The Hon. G.M. GUNN: Earlier today in another debate, the Minister for Transport had the effrontery to accuse me of being an old leadfoot. That in itself was a reflection upon my capacity to comply with the road rules of this state. I therefore want to make it quite clear that any leadfoots are obviously on the government benches.

CHILD SEX OFFENDERS REGISTRATION BILL

The Hon. M.J. ATKINSON (Attorney-General) obtained leave and introduced a bill for an act to establish a register of child sex offenders; to prevent registered child sex offenders engaging in child-related work; and for other purposes. Read a first time.

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

That this bill be now read a second time.

The Child Sex Offenders Registration Bill will:

- require registrable offenders (as defined) to register with, and provide specified personal details to, the Commissioner for Police for a specified period. Registration will be required either automatically upon conviction (mandatory registration) or by court order (discretionary registration);
- require registrable offenders to report annually, and as otherwise required, to the Commissioner during the specified period;
- require registrable offenders to notify the Commissioner about any change in the required personal details during the specified period;
- require registered offenders to notify the Commissioner about any planned travel outside of South Australia;
- provide for the monitoring of registrable offenders from other jurisdictions;
- require the Commissioner to establish and maintain a confidential register of information provided by registrable offenders, to which access is to be strictly limited to designated police officers and other law enforcement authorities for monitoring and law enforcement purposes;
- prohibit a registrable offender from working in a child-related area.

This bill is an important step towards ensuring that South Australia's children are protected from sexual predators. I seek leave to insert the remainder of the second reading explanation into *Hansard* without my reading it.

Leave not granted.

The Hon. M.J. ATKINSON: The point of child-offender registration legislation is to require some types of offender, known as 'registrable offenders', who have been convicted of serious offences against children (generally sex offences and offences of violence with a sexual element) to register with and provide certain personal information to the police upon their release from prison or upon conviction if no custodial sentence is imposed. Registrable offenders are then

required, regularly, to report to police and to keep police informed about any changes to the required information. Failure to report to police or update information as required are themselves further offences. Penalties for breaches of the legislation include imprisonment. The length of time a registrable offender must remain registered depends upon the nature and seriousness of the offence with which the offender has been convicted, but can be for life in the most serious of cases.

I wish the member for Mitchell, who is requiring me to read this over the next half hour, would get his head out of the newspaper and pay attention to the proceedings of the parliament. He could do that on behalf of the constituents he represents.

Mr Hanna interjecting:

The SPEAKER: Order!

The Hon. M.J. ATKINSON: The member for Mitchell is opposed, I believe, to this legislation and it is no wonder that he would require me to read it out as a punishment for introducing it.

The purpose of a child offender register, in the Australian context, is to assist police to monitor the whereabouts and activities of registrable offenders who, because of their record of serious offending, are thought to pose a sexual threat to children. Access to the information on the register is strictly controlled, and is limited to police and other law enforcement authorities for monitoring and law enforcement purposes.

Mr Speaker, let the record show that the member for Mitchell continues to read a newspaper in the chamber.

Importantly, the register is not accessible by members of the public, as it is in many United States jurisdictions. Experience has taught that public access to such information is unwise. Practical experience in the United Kingdom and the United States of America has shown that public release of the information results in mayhem and vigilantism. In the United Kingdom, vigilantes with a limited vocabulary burnt a paediatrician's house to the ground. In addition, it can be said that police across Australia have firmly decided that the national policy should be against public release. They know only too well, and rightly so, what problems will result for them.

Legislation to establish a child sex offender register was first enacted in Australia in New South Wales in 2000. At its 44th meeting in July 2003, the Australasian Police Ministers' Council resolved to support the development of a national child sex offender register based on draft legislation modelled on the New South Wales register and associated legislation. The proposed model was the subject of consultation at both officer and ministerial level with the standing committee of Attorneys-General. Although supportive in principle, SCAG was concerned to ensure that the proposed model was balanced and effectively directed resources towards the problem of recidivist and predatory pederasts. General agreement was reached on these matters.

- A national register should be established based on mandatory reporting model for specified categories of offences against children;
- the national register will be managed by CrimTrac;
- there will be mutual recognition of reporting orders, so that a reporting requirement imposed under the legislation of one jurisdiction will be recognised in other jurisdictions (that is, a reporting obligation registered nationally remains enforceable when a registered offender moves interstate);
- the registrable information reporting requirements should be nationally consistent (although allowing that the requirement for annual reporting may be imposed by means of a notice to report);
- it will be an offence to disclose information contained in the register without proper authority (leaving each jurisdiction to set, by an appropriate mechanism, the boundaries for information release);
- there may be some variation between jurisdictions on
- the categories of offenders automatically registered;
- the length of reporting periods; and
- the extent of the court review mechanisms available (noting, in particular, that different arrangements are likely to apply for juveniles).

In accordance with the agreement between APMC and SCAG, Victoria enacted the Sex Offenders Registration Act 2004. This legislation provides for the creation of a register that imposes mandatory reporting obligations on some registrable offenders and discretionary reporting obligations on others. The government proposes that the South Australian legislation be modelled on the Victorian Sex Offenders Registration Act 2004 with some minor modifications. The details of the bill are set out below. I now seek to insert the remainder of my second reading speech in *Hansard* without my reading it.

The SPEAKER: Leave is sought; is leave granted?

Mr Hanna: No. I will say it is because of your remarks.

The SPEAKER: Order! Leave is not granted.

The Hon. M.J. ATKINSON: Mr Speaker, let the record show that the member for Mitchell is not listening to a word of this speech but is reading a newspaper and other documents in the chamber.

Mr HANNA: On a point of order: I understand that the Attorney makes those remarks only to be provocative—

The SPEAKER: Order! What is the point of order?

Mr HANNA: That it is out of order, sir, for a member to refer to the materials such as the one I am reading at the moment, The Review of South Australia's Rape and Sexual Assault Laws, which is directly related to the topic which the Attorney General is covering.

The SPEAKER: Order! The member for Mitchell will take his seat.

Mr HANNA: It is out of order to do so, sir.

The SPEAKER: I agree; it is highly discourteous.

Mr HANNA: Thank you, sir.

The SPEAKER: It is not, however, a breach of any standing order. Perhaps the Attorney-General can get on with it.

The Hon. M.J. ATKINSON: The electors of Mitchell expect their member to pay attention.

Mr HANNA: On a point of order: the Attorney is again being provocative by reflecting on another member.

The SPEAKER: There is no point of order.

Mr HANNA: It is, of course, false to suggest that I am not paying attention.

The SPEAKER: There is no point of order; the member for Mitchell will take his seat.

Mr HANNA: May I make a request of you, sir, to assist other members to uphold the courtesies and dignities of the place that are traditional.

The SPEAKER: Yes, and I have done that. The Attorney-General will get on with it.

The Hon. M.J. ATKINSON: Who is a registrable offender? The act will apply to three categories of registrable offenders:

- mandatory registrable offenders;
- corresponding registrable offenders; and
- discretionary registrable offenders.

A mandatory registrable offender is a person who has been sentenced for a class 1 or class 2 'registrable offence'. These offences are contained in the schedules to the bill. The list of registrable offences is strictly limited to child sex offences and serious offences of sexual violence against children in accordance with the original intent of the legislation. The legislation will provide that a person acquitted of, or found unfit to stand trial for, a registrable offence by reason of mental impairment will be caught by the mandatory registration requirements. A corresponding registrable offender is a person who is a registrable offender under the corresponding legislation of another state or territory. A discretionary registrable offender is a person who is ordered to register with the commissioner by a court, being:

- a child who has been found guilty of a mandatory registrable offence where the court, having taken into account any matter that it considers appropriate, is satisfied that the child poses a risk to the sexual safety of one or more children;
- a person who has been found guilty of an offence that is not a class 1 or class 2 offence, where the court, having taken into account any matter that it considers appropriate, is satisfied that the person poses a risk to the sexual safety of one or more children;
- a person who is subject to a paedophile restraining order under section 99AA of the Summary Procedure Act and who does not already meet the definition of a registrable offender. (In practice, this will be limited to where the PRO is made under section 99AA(1)(b)(iii), that is, where the person has not been convicted of a child sexual offence). Any registration order made on this basis only has the life of the principal order itself.

I turn now to the right of appeal against initial registration. There will be no right of appeal against initial registration for:

- mandatory registrable persons; or
- corresponding registrable persons.

There will, however, be a right of appeal against initial registration for discretionary registrable persons. The onus will be on the person to establish that, if the order were made, the effect on the person, including on their privacy and liberty, would be grossly disproportionate to the public interest in protecting society through the effective investigation of crimes of a sexual nature to be achieved by registration under the act. The court will be given authority to stay a registration order pending an appeal. I seek leave to have the remainder of my second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Effect of Registration

These reporting obligations apply to all registrable persons:

- within 28 days of sentencing or the making of a child sex offender registration order, 28 days of release from custody, 45 days from the commencement date of legislation (if the offender is not in custody) or 14 days from entering the State, the registrable person must provide to the Commissioner this information:
  - name (including any aliases or previous names);
  - date of birth;
  - address;
  - name and ages of all children with whom they reside or with whom they have regular unsupervised contact;
  - name and details of employment (including training or voluntary work);
  - nature of employment;
  - details of any affiliations with any club or organisation with child membership;
  - details of cars owned or regularly driven;
  - details of tattoos or other distinguishing marks; and
  - details of any convictions or custody;
- notify the Commissioner within 14 days of any change to the prescribed personal information;
- report to the Commissioner annually, confirming the accuracy of the prescribed information;
- give the Commissioner seven days notice of any intended absence from the State for more than 14 days, including the details of the proposed absence (where to, how long, approximate return date), any change in the notified details and, within 14 days, notify the Commissioner of their return. Other reporting obligations are suspended for the time the person is absent from the State. However, they will be subject to equivalent reporting obligations in the jurisdiction they are visiting.

Initial, annual or change of detail reports about certain matters (change of address, tattoo or distinguishing mark) must be made in person to specified approved police officers. Other reports may be made in a prescribed or approved (by Commissioner) manner. Allowances will be made for reportable persons living in remote areas or with disabilities that render reporting in person or within the specified timetables impractical.

Reporting Period

The reporting obligations will apply to a registrable person for the relevant reporting period. These are:

- for a mandatory reportable person:
  - eight years for a single class 2 offence;
  - 15 years for a single class 1 offence or multiple class 2 offences;
  - life for offenders already registered because of a class 1 offence who are found guilty of another registrable offence (class 1 or 2); offences registered for a class 2 offence found guilty of a subsequent class 1 offence; offenders already registered for one or more class 2 offences and found guilty of another one or more class 2 offences (i.e., resulting in conviction for three or more class 2 offences);
- for a discretionary reportable person:
  - for conviction for a non-registrable offence in relevant circumstances, such period as is ordered by the court.
  - if a child, half the relevant prescribed mandatory registration period if applicable, or as ordered by the court if discretionary (noting juveniles are not liable for registration for life);
  - if registrable solely because of a P.R.O., for the life of the P.R.O.

Exemptions from reporting obligations

Where a registrable person is subject to lifetime registration, he or she may apply to the Supreme Court after 15 years for an order suspending the reporting obligation.

A discretionary registrable person may apply to the Supreme Court for an order suspending or cancelling the reporting obligations at any time.

Establishment of Child Sex Offender Register

The Act will:

- require the Commissioner to establish a Child Sex Offender Register (the Register);
- require the Commissioner to enter on to the Register all required information about a registrable offender (including all updated information);
- require the Commissioner to restrict access to the Register to authorised persons;
- require the Commissioner to develop guidelines about access to, and disclosure of, information from the Register (which must be approved by the Minister);
- prohibit unauthorised access to or disclosure of information from the Register;
- provide a registrable person with the right to:
  - require the Commissioner to provide him with a copy of any information about him on the Register; and
  - require the Commissioner to amend an entry that is incorrect.

Prohibition on Child-Related Employment

The Act will prohibit a registrable person from applying for employment in a child-related area for the period of registration. Further consultation will occur on whether the period of prohibition should apply after the period of registration finishes and, if so, for how long. For the purposes of the prohibition, "child-related employment" will be defined broadly to include employment (paid, voluntary or training) involving contact with a child in connection with:

- pre-schools or kindergartens;
- child care centres;
- educational institutions for children;
- child protection services;
- juvenile detention centres;
- refuges or other residential facilities used by children;
- foster care for children;
- hospital wards or out-patient services (whether public or private) in which children are ordinarily patients;
- overnight camps regardless of the type of accommodation or of how many children are involved;
- clubs, associations or movements (including of a cultural, recreational or sporting nature) with significant child membership or involvement;
- programs or events for children provided by any institution, agency or organisation;
- religious or spiritual organisations;
- counselling or other support services for children;
- commercial baby sitting or child minding services;
- commercial tuition services for children;
- services for the transport of children.

Offences

The Act will provide for these offences:

- failing to comply with reporting obligations;
- furnishing false or misleading information; and
- unauthorised access to or disclosure of information from the Register.

Retrospectivity

The Act will apply retrospectively, meaning:

- persons who have been convicted of a registrable offence, but before commencement of the legislation ("prior convictions"), will have to register for the balance of the relevant registration period;
- prior convictions will be relevant in calculating the relevant registration period.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

3—Object

This clause specifies the object of the measure.

4—Interpretation

This clause defines terms used in the measure. In particular—

registrable offence is defined to mean a class 1 offence (see Schedule 1 Part 2 of the measure), a class 2 offence (see Schedule 1 Part 3 of the measure) or an offence that results in the making of a child sex offender registration order (see clause 9);

offence is defined to include conduct that is, under clause 5, equated with the commission of an offence for the purposes of the measure.

5—Conduct equated with commission of an offence

This clause provides that conduct that is not an offence but is found by a court to be sufficient to ground the making of a restraining order under section 99AA of the *Summary Procedure Act 1921* (a paedophile restraining order) is, for the purposes of the measure, equated with the commission of an offence.

Part 2—Offenders to whom Act applies

6—Who is a registrable offender?

This clause identifies that a registrable offender is—

(a) a person whom a court has at any time (whether before, on or after the commencement of the clause) sentenced for a registrable offence;

(b) a foreign registrable offender;

(c) a New South Wales registrable offender.

A person is not however a registrable offender merely because while under the age of 18 he or she committed a class 1 or class 2 offence for which he or she has been sentenced or because of being sentenced for a single class 2 offence if the sentence did not include a term of imprisonment and was not a supervised sentence.

7—Who is a foreign registrable offender?

This clause defines foreign registrable offenders.

8—Who is a New South Wales registrable offender?

This clause defines New South Wales registrable offenders.

9—Child sex offender registration order

This clause allows a court to make a child sex offender registration order on sentencing a person for any offence or on making a paedophile restraining order if the court is satisfied that the person poses a risk to the sexual safety of any child or children. In addition the Magistrates Court is empowered to make a child sex offender registration order in relation to a person who has been sentenced for an offence against the law of a foreign jurisdiction (and who is not otherwise a registrable offender in respect of that offence) if the court is satisfied that the person poses a risk to the sexual safety of any child or children.

10—Appeal against order

This clause provides for an appeal against a child sex registration order.

Part 3—Reporting obligations

Division 1—Initial report

11—When report must be made

This clause identifies when the initial report under the measure must be made by a registrable offender (depending on whether the registrable offender is in custody etc).

12—When new initial report must be made by offender whose previous reporting obligations have ceased

This clause sets out reporting requirements for a person who is sentenced for a registrable offence after previous reporting requirements have expired.

13—Initial report by registrable offender of personal details

This clause sets out the personal details that must be included in the initial report.

14—Persons required to report under corresponding law

This clause sets out requirements relating to a person who is required to report to a corresponding registrar and who enters and remains in South Australia.

Division 2—Ongoing reporting obligations

15—Registrable offender must report annually

This clause provides for annual reporting by registrable offenders.

16—Registrable offender must report changes to relevant personal details

This clause requires a report to be made where the personal details of a registrable offender change.

17—Intended absence from South Australia to be reported

A registrable offender must report any intended absence if the registrable offender will be travelling interstate for 14 days or more, or overseas.

18—Change of travel plans while out of South Australia to be given

This clause provides for reporting where a registrable offender changes his or her travel plans so that he or she will be out of South Australia for more than 13 days or wants to change any other details provided under the preceding clause.

19—Registrable offender to report return to South Australia or decision not to leave

This clause provides that a registrable offender who is required to report an intended absence under clause 17 must report his or her return or a decision not to leave.

20—Report of other absences from South Australia

This clause requires reporting of other shorter absences from the State if they occur at least once a month.

Division 3—Provisions applying to all reporting obligations

21—Where report is to be made

This clause specifies where reports are to be made.

22—How report is to be made

This clause specifies how reports are to be made (whether in person or otherwise).

23—Right to privacy and support when reporting

A person making a report is entitled to make the report out of the hearing of other members of the public and is entitled to be accompanied by a support person.

24—Receipt of information to be acknowledged
A written acknowledgment of a report is to be given by the police officer or other person receiving the report.
25—Additional matters to be provided
This clause provides for the provision of other identification documents when a report is made.
26—Power to take fingerprints or fingerscan
This clause empowers the taking of fingerprints or a fingerscan from a person making a report.
27—Power to take photographs
A police officer may arrange for the taking of photographs of the registrable offender.
28—Reasonable force may be used
This clause authorises the use of reasonable force (in certain circumstances) to take fingerprints, a fingerscan or photographs.
29—*Criminal Law (Forensic Procedures) Act 1998* not to apply
The *Criminal Law (Forensic Procedures) Act 1998* is not to apply to the taking of fingerprints, fingerscans or photographs under the measure.
30—Retention of material for certain purposes
This clause provides for the retention of documents and fingerprints and photographs of a registrable offender during the reporting period of the registrable offender, and for destruction of such material on the expiry of that period.
31—Reporting by remote offenders
This clause makes special provision in relation to reporting by registrable offenders who reside more than 100 km from the nearest police station.
Division 4—Suspension of reporting obligations
32—Suspension of reporting obligations
This clause allows for suspension of reporting obligations in certain circumstances.
Division 5—Reporting period
33—When reporting obligations begin
This clause defines when reporting obligations begin. If the offender is placed in custody in relation to the offence, the obligation begins on release from that custody and if the offender is not in custody, the obligations begin when the offender is sentenced.
34—Length of reporting period
This clause specifies the length of the reporting period, which varies according to the type and number of offences committed but can in some cases be for the remainder of the person's life.
35—Reporting period for foreign registrable offenders
36—Reporting period for New South Wales registrable offenders
These clauses specify the reporting period for foreign registrable offenders and NSW registrable offenders.
Division 6—Exemption from reporting obligations
37—Supreme Court may exempt certain registrable offenders
Under this clause a registrable offender who is required to continue to comply with the reporting obligations for the remainder of his or her life can apply to the Supreme Court for suspension of the obligations if—

(a) a period of 15 years has passed since he or she was last sentenced or released from government custody in respect of a registrable offence or a foreign registrable offence, whichever is later; and

(b) he or she did not become the subject of a life-long reporting period under a corresponding law whilst in a foreign jurisdiction before becoming the subject of such a period in South Australia; and

(c) he or she is not on parole in respect of a registrable offence.

38—Order for suspension
This clause provides for the making of orders suspending obligations. In deciding whether to make the order, the Supreme Court must take into account—

(a) the seriousness of the registrable offender's registrable offences and foreign registrable offences; and

(b) the period of time since those offences were committed; and

(c) the age of the registrable offender, the age of the victims of those offences and the difference in age between the registrable offender and the victims of those offences, as at the time those offences were committed; and

(d) the registrable offender's present age; and

(e) the registrable offender's total criminal record; and

(f) any other matter the Court considers appropriate.

The Court must not make the order unless it is satisfied that the registrable offender does not pose a risk to the sexual safety of any child or children.
39—Commissioner is party to application
This clause makes the Commissioner a party to an application for an order suspending obligations.
40—No costs to be awarded
No costs are to be awarded in proceedings for an order suspending obligations.
41—Restriction on right of unsuccessful applicant to reapply for order
A registrable offender is not entitled to make a further application to the Supreme Court until 5 years have elapsed from the date of a refusal, unless the Court otherwise orders at the time of the refusal.
42—Cessation of order
This clause provides that an order suspending obligations ceases if the registrable offender—

(a) is made subject to a child sex offender registration order; or

(b) is found guilty of a registrable offence; or

(c) becomes a foreign registrable offender who must under clause 35 continue to comply with the reporting obligations imposed by the Part for any period.

The clause also provides that the order can revive in certain circumstances.
43—Application for new order
This clause provides for the making of an application for a new order suspending obligations where a previous order has ceased under clause 42.
Division 7—Offences
44—Offence of failing to comply with reporting obligations
This clause creates an offence of failing to comply with reporting obligations without a reasonable excuse. The offence is punishable by a fine of $10 000 or imprisonment for 2 years.
45—Offence of furnishing false or misleading information
This clause creates an offence of furnishing false or misleading information that is punishable by a fine of $10 000 or imprisonment for 2 years.
46—Time limit for prosecutions
Proceedings for an offence must be commenced within 2 years unless the Attorney-General authorises the commencement of the proceedings at a later time.
47—Bar to prosecution for failing to report leaving South Australia
If a registrable offender leaves South Australia and is found guilty of failing to report his or her presence in a foreign jurisdiction as required by a corresponding law, the registrable offender is not to be prosecuted for a failure to comply with clause 17 in respect of the travel out of South Australia.
Division 8—Notification of reporting obligations
48—Notice to be given to registrable offender
This clause requires the Commissioner to give a registrable offender written notice of his or her reporting obligations and the consequences of failing to comply.
49—Courts to provide information to Commissioner
This clause requires the courts to provide the Commissioner with certain information relevant to the measure.
50—Notice to be given when reporting period changes
This clause requires the Commissioner to give a registrable offender written notice of a change to his or her reporting period.
51—Supervising authority to notify Commissioner of certain events
If a registrable offender—

(a) ceases to be in strict government custody; or

(b) ceases to be in government custody; or

(c) ceases to be subject to a supervised sentence; or

(d) ceases to be subject to a condition of parole requiring the person to be subject to supervision; or

(e) ceases to be an existing licensee,

the supervising authority must notify the Commissioner of that fact.

52—Notices may be given by Commissioner

This clause allows the Commissioner to give written notices to a registrable offender at any time (ie. even when not required under another provision).

53—Failure to comply with procedural requirements does not affect registrable offender's obligations

A failure by a person other than a registrable offender to comply with any procedural requirement imposed on the person does not, of itself, affect a registrable offender's reporting obligations.

Division 9—Modified reporting procedures for protected witnesses

54—Who this Division applies to

This clause provides that the Division applies to—

(a) registrable offenders who are participants in the State Witness Protection Program; and

(b) registrable offenders who are the subject of an order in force under the Division.

55—Report need not be made in person

A person to whom this Division applies will comply with the reporting requirements of this Part if he or she reports such information as the Commissioner requires him or her to report and does so at the times, and in a manner, authorised by the Commissioner and if acknowledgment is given in a manner approved by the Commissioner.

56—Order as to whether Division applies

This clause allows for the making of an order by the Commissioner that a person either is, or is not, a person to whom this Division applies and provides for internal review of such orders.

57—Appeal to District Court

This clause allows for an appeal to the Administrative and Disciplinary Division of the District Court against an order under clause 56.

58—When order takes effect

This clause defines when an order takes effect.

59—Modification of ongoing reporting obligations

This provision provides for the application of clauses 13(1), 17 to 20 and 47 with respect to a person to whom this Division applies as if any reference in the clauses to South Australia were a reference to the jurisdiction in which the person generally resides.

Part 4—The register of child sex offenders

60—Register of child sex offenders

This clause provides for the establishment of the register and specifies the information that is to be entered on the register in respect of each registrable offender.

61—Access to register to be restricted

This clause provides for the development of guidelines (which are to be approved by the Minister) governing access to the register. The guidelines are to ensure that access to information contained in the register is restricted to the greatest extent that is possible without interfering with the purpose of the measure.

62—Restriction on who may access personal information on protected witnesses

This clause makes special provision in relation to access to information in the register that identifies, or might identify, a person to whom Part 3 Division 9 applies.

63—Registrable offender's rights in relation to register

This clause gives a registrable offender a right to a copy of reportable information held in the register in relation to the registrable offender on request. There are also provisions to allow a registrable offender to request amendment of information and for review of decisions on such a request by the Police Complaints Authority.

Part 5—Registrable offenders prohibited from child-related work

64—Interpretation

This clause defines certain terms used in the Part. In particular ***child-related work*** is defined as work involving contact with a child in connection with—

(a) pre-schools or kindergartens;

(b) child care centres;

(c) educational institutions for children;

(d) child protection services;

(e) juvenile detention centres;

(f) refuges or other residential facilities used by children;

(g) foster care for children;

(h) hospital wards or out-patient services (whether public or private) in which children are ordinarily patients;

(i) overnight camps regardless of the type of accommodation or of how many children are involved;

(j) clubs, associations or movements (including of a cultural, recreational or sporting nature) with significant child membership or involvement;

(k) programs or events for children provided by any institution, agency or organisation;

(l) religious or spiritual organisations;

(m) counselling or other support services for children;

(n) commercial baby sitting or child minding services;

(o) commercial tuition services for children;

(p) services for the transport of children.

65—Registrable offender excluded from child-related work

This clause makes it an offence for a registrable offender to apply for or engage in child-related work. The offence is punishable by 5 years imprisonment.

66—Offence to fail to disclose charges

This clause makes it an offence for a person who is engaged in, or has applied for, child-related work and who is charged with a class 1 or 2 registrable offence to fail to disclose charges to his or her employer or prospective employer. The offences are punishable by a fine of $5000.

Part 6—Miscellaneous

67—Confidentiality of information

This clause makes it an offence to intentionally or recklessly disclose information obtained under the measure other than in accordance with the principles in Schedule 2. The maximum penalty for the offence is imprisonment for 5 years.

68—Restriction on publication

This clause makes it an offence to intentionally or recklessly publish a report containing information disclosed in contravention of clause 67.

69—*State Records Act 1997* and *Freedom of Information Act 1991* not to apply

This clause provides that the *State Records Act 1997* and the *Freedom of Information Act 1991* do not apply to information obtained under the measure.

70—Immunity of persons engaged in administration of Act

This clause provides for immunity from personal liability for a person engaged in the administration of the measure for an act or omission in good faith in the exercise or discharge, or purported exercise or discharge, of official powers or functions. Such liability lies instead against the Crown.

71—Effect of spent convictions

Whilst South Australia does not have a spent convictions regime, other jurisdictions do and this provision makes it clear that the fact that a conviction has become spent under such legislation does not affect its status as an offence under this Act.

72—Evidentiary

This clause provides for evidentiary certificates (signed by the Commissioner, or a police officer holding a position designated in writing by the Commissioner for the purposes of the clause) relating to matters contained in the register. The provision also provides for recognition of certificates under a corresponding law.

73—Regulations

This clause provides for the making of regulations.

Schedule 1—Class 1 and 2 offences

Part 1—Preliminary

1—Interpretation

This is an interpretative provision for the Schedule.

Part 2—Class 1 offences

2—Class 1 offences

This clause lists the class 1 offences.

Part 3—Class 2 offences

3—Class 2 offences

This clause lists the class 2 offences.

Schedule 2—Information disclosure principles

Schedule 2 sets out the information disclosure principles for the purposes of clause 67.

Mr WILLIAMS secured the adjournment of the debate.

GEOGRAPHICAL NAMES (MISCELLANEOUS) AMENDMENT BILL

The Hon. M.J. WRIGHT (Minister for Administrative Services and Government Enterprises) obtained leave and introduced a bill for an act to amend the Geographical Names Act 1991.

Read a first time.

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

That this bill be now read a second time.

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

Leave granted.

The Geographical Names Act provides a process of determining and assigning geographical names to places in South Australia, and altering existing place names (including suburb boundaries).

The Act came into effect on 9 January 1992. The Act establishes the Geographical Names Advisory Committee to advise the Minister and the Surveyor-General on the performance of their functions under the Act.

One of the outcomes of this amendment is to disband the Geographical Names Advisory Committee.

The Committee meets approximately every two months to review and comment on nomenclature proposals lodged with the Surveyor-General. In practice, the Surveyor-General's staff researches all proposals, involving significant consultation with emergency services providers, Australia Post, Councils, and the community. The outcome of this consultation forms the basis of the Surveyor-General's recommendations to the Minister in relation to a proposal. The Surveyor-General cannot forward a recommendation without first consulting the Committee. This can result in unnecessary delays in dealing with naming proposals where there is often a significant level of public interest.

This Government has a commitment to disband Boards and Committees that get in the way of efficient public administration and considers the Geographical Names Advisory Committee to fall within this category.

The second part of the Bill is also about more efficient public administration and provides a simple process to allow minor changes to be made to suburb and locality boundaries. Suburb and locality boundaries by and large follow property boundaries. As a result of land divisions, it is not uncommon for a property boundary to change resulting in a misalignment between the suburb or locality boundary and the property boundary. While this is mainly a matter of presentation, misalignment can have an effect if, for example, the particular boundary is an electoral boundary or a census district boundary. The provisions set down in the Bill allow the Minister to make minor changes to suburb and locality boundaries through a simple administrative process.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

The Act will be brought into operation by proclamation.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Geographical Names Act 1991*

4—Amendment of section 3—Interpretation

5—Amendment of section 6—Functions of Minister

6—Amendment of section 7—Power of Minister to delegate

These clauses delete references to the Geographical Names Advisory Committee. These amendments are therefore consequential on the proposed repeal of Division 3 of Part 2 by clause 7.

7—Repeal of Part 2 Division 3

This clause repeals Division 3 of Part 2. Sections 10 and 11 of Division 3 establish and set out the functions of The Geographical Names Advisory Committee.

8—Amendment of section 11B—Assignment of geographical name

The amendment inserts new subsections (4) and (5) into section 11B of the principal Act. New subsection (4) provides that if a division or amalgamation of allotments of land does not result in a change of address of any allotment involved in the division or amalgamation, the Minister need not comply with subsection (2) in altering the boundary of a place in respect of which a geographical name has been assigned or approved under this Act so as to align it with a boundary of an allotment of land resulting from the division or amalgamation. Consequently, the change can be made without the need for consultation.

Subsection (5) provides that the new arrangement applies to divisions and amalgamations that took place before the commencement of the subsection, as well as to future divisions and amalgamations.

Mr WILLIAMS secured the adjournment of the debate.

EMPLOYEE OMBUDSMAN

The Hon. M.J. WRIGHT (Minister for Industrial Relations): I move:

That pursuant to section 58 of the Fair Work Act 1994, the nominee of this house to the panel to consult with the minister about an appointment to the position of Employee Ombudsman be the member for MacKillop.

I do not think I need to speak in detail about this motion. As has been the case previously, both by the former government and this government, I contacted the shadow minister and provided him with the opportunity to be the representative, and he confirmed that with me this week. There is probably not much more I need to say about the matter.

Motion carried.

NATURAL RESOURCES MANAGEMENT (TRANSFER OF WATER LICENCES) AMENDMENT BILL

Consideration in committee of the Legislative Council's amendments.

The Hon. G.M. GUNN: Madam Acting Chair, I draw your attention to the state of the committee.

A quorum having been formed:

The Hon. K.A. MAYWALD: I move:

That the Legislative Council's amendment be agreed to.

The amendment that has been agreed to by the Legislative Council is an amendment that was put forward by the government after consideration of the recent events in regard to water trading. The government had planned to remove stamp duty from water transfers by 2009-10 as part of the suite of tax removals that have been announced over the past couple of years. However, given the recent progress that we have achieved with New South Wales and Victoria, it was decided that it would be prudent to bring forward the removal of stamp duty on water transfers to bring us in line with other states with which we will be trading. Neither New South Wales nor Victoria charge stamp duty on water transfers and, as we will be opening trade further between those states, it was seen to be appropriate that we should fall into line with New South Wales and Victoria.

Having stamp duty in South Australia was an impediment to development in this state as New South Wales and Victoria did not incur those charges. This will mean to the irrigation

industry that we will have removed another barrier to trade and that we will be moving forward under the national water initiative agreement that the state has signed up to with the other jurisdictions and the commonwealth in regard to a nationally consistent water trading market. It is an initiative that I strongly support, and I am pleased that the government has determined to move this amendment to which the Legislative Council has agreed. I understand that the opposition, and members in the upper house, have supported unanimously this measure, and I commend it to the house.

Mr WILLIAMS: The opposition also supports the amendment. I remind the house that during the debate when the bill was in this place, the opposition raised the issue of exempting stamp duty on inter-family water transfers to reflect what the parliament did some years ago to inter-family transfers in the case of farming properties. Most of these water licences are used on farming enterprises, and the opposition argued the case that it was only fair and reasonable that we apply the same exemptions to water licences that we had previously to land transfers. The opposition is delighted to learn that the government has brought forward a plan to match our cousins across the border in New South Wales and Victoria where they have not applied stamp duty to water licence transfers. That may be the impetus for the opposition getting a win on this matter, and I am delighted that it has occurred. A number of my constituents have been disadvantaged in recent times over the application of stamp duties on such transfers. I know that my constituents—and I am sure the constituents of other members—will be very pleased to see this change made to the statute. I commend the amendment as moved in the other place.

Motion carried.

RIVER TORRENS LINEAR PARK BILL

Adjourned debate on second reading.

(Continued from 7 June. Page 457.)

Mr GRIFFITHS (Goyder): As the lead speaker for the Liberal Party on this bill, I confirm that we support the bill and the philosophy behind it. The need for park lands in the new settlement of South Australia—and in Adelaide, specifically—was first identified by James Hurtle Fisher in 1837 when he stated:

> The Adelaide Parklands is land reserved from sale, set apart and dedicated as a park or public place for the use and recreational health of the citizens and for a public walk along the river and the ornament of town.

The River Torrens Linear Park, being some 32 kilometres long, is one of the greatest examples in the world of a continuous area of park lands as it runs from the coastal suburb of Henley Beach to the Adelaide Hills. For those who live within the metropolitan area and the tens of thousands of people who work in the area, the Linear Park provides the ideal opportunity to get away from the hustle and bustle of city life and enjoy some of the open space that I, given that I come from the Yorke Peninsula, enjoy every day when I am at home. Unfortunately that is not as often as I would like it to be.

Facilities provided in the River Torrens Linear Park include several playgrounds, an extensive bike track, and picnic and barbecue areas. As I understand it, this bill reflects the fact that the River Torrens Linear Park is of national significance. The park is for the public benefit and should generally be available for the use and enjoyment of the public. Land within the park should be retained in government ownership—be it state or local—and governments should not sell land within the park outside of government ownership without the approval of both houses of parliament. I understand that the only exception to this position will be intragovernment transfers.

Specifically, the various clauses of the bill undertake the following roles. Clause 4 allows for a variation of the plan by the minister, who is required to give written notice to any council affected by the variation and who must provide a period of between three and six weeks for the council to make a submission. Clause 5 confirms that a sale of land within the linear park may only occur if the sale is in accordance with a resolution passed by both houses of parliament, while clauses 6 and 7 give the minister power to vary the general registry office plan in circumstances where it is necessary to ensure consistency with the Roads (Opening and Closing) Act.

Generations of families have enjoyed the facilities provided by this park and, with the adoption of this bill, generations to come can be secure in the knowledge that the River Torrens Linear Park cannot be sold. In essence it will only ever grow in size, as the bill allows for the acquisition of land in accordance with the Land Acquisition Act 1969 for the purpose of increasing the area of land within the linear park. Governments are put in place to make pro-active decisions, decisions that will ensure that the right thing will occur, and in this case there can be little doubt that the long-term preservation of the River Torrens Linear Park is the right thing to do. I note, in reading the *Hansard* of the Legislative Council, that all who spoke on the bill (be they Labor, Liberal, Family First or Greens representatives) supported the need for this legislation to be in place with little or no reservation. Clarification sought by the Hon. David Ridgway in the other place on the location of the ownership details of the five parcels of privately-owned land captured in the bill has been provided by the minister. It is also noted that the bill does not apply to those parcels of land, as they have existing use rights which continue to apply.

The boundary of the linear park is defined by the general registry office plan, with copies of the plan available for inspection within local councils and the responsible government departments. The bill does not detail areas identified for future acquisition, nor is it envisaged that there will be a need for significant acquisition of land in future. That said, I understand that future extension possibilities may also be created via appropriately identified zoning within the development plans of the council areas through which the River Torrens Linear Park exists—those being Adelaide Hills, Tea Tree Gully, Campbelltown, Walkerville, Adelaide, Charles Sturt and West Torrens.

It is indeed pleasing that the only amendments made to the bill were those of a minor nature which were required to ensure that the comments of the Local Government Association were acknowledged and considered. The only change requiring mention at this stage was that of the inclusion of the need to also consult the Local Government Association, for a period of between three and six weeks, when proposing the creation of a regulation under this act. As a long time senior employee of several local government authorities I have always respected the ability of the Local Government Association, on behalf of its member councils, to review proposed legislation and identify areas requiring clarification and potential change.

Governments of all persuasions have worked hard over the last 150 years to create a system of park lands across the South Australian landscape. This bill will confirm the future of a vital component of community-owned park lands which, in total, make up some 21 per cent of South Australia. I confirm our support for the bill.

Mr KENYON (Newland): I rise in support of the bill. My primary interest in this bill is the way that land can be protected and, for me, it revolves around the aqueduct land in Highbury, which has been a long-running issue. The aqueduct there is reaching the end of its useful life and residents are concerned that when it is decommissioned the land will be sold off. At some point during the election campaign it became apparent that the government would need to protect this land from being sold off because it was inappropriate development down there, and we needed to find a way of protecting the land that involved more than just a promise not to sell it. I thank minister Holloway in another place for his creativity, in a way, in agreeing to include the aqueduct land in the linear park because that means that once this bill is passed, as I sincerely hope it is, that land will be included in the linear park and will not be able to be sold without the consent of both houses of parliament. That is a substantially higher level of protection than one could expect from a promise not to sell it made by the executive during an election—which, obviously, was the Liberal Party promise of the last election.

I welcome the bill and welcome the inclusion of the aqueduct land in it. I would also like to make a point of thanking the former member for Newland, Dorothy Kotz, for her work in pushing this issue.

Ms SIMMONS (Morialta): I rise to support this bill. The River Torrens Linear Park forms the north-west edge of the electorate of Morialta. It is a well-used park and cycle path and it is important to ensure that it remains in the hands of the public, not only for the current users but also for the generations to come. As a regular user of this facility, from a personal perspective I can report that many families take the opportunity to exercise in it with their children, particularly at weekends. It is a place where you can often catch up with friends, neighbours and acquaintances as you stroll along—in fact, some friendships have been forged by meeting on the track, with children playing together and parents joining in discussions with other parents. One of my own children's favourite adopted grandfathers was met 15 years ago on the linear park track.

However, at present there are pockets of land adjacent to the river that are vulnerable to the whim of the local council. This land could, in fact, be sold off for development at any time under the current legislation. This bill will prevent those areas being built on or sold to a private developer. From a developer's perspective this land would be seen as prime land, as it would provide a great location for someone to build a riverside dwelling or even a cluster of riverside dwellings for private use, hence preventing the public from being able to walk or cycle unfettered from foothills to the sea.

The Torrens Linear Park is the largest hills to coast park in Australia. This government has had to introduce this bill to prevent a repeat of the debacle of the former (Liberal) government, which authorised the sale of the whole of the former Underdale campus of the University of South Australia. This included the Torrens Linear Park and the river contained within that site. This occurred because it failed, in its decision to sell the land, to exclude those portions of land alongside the river. Luckily for the community, the Rann government was able to successfully negotiate approximately 50 000 square metres of linear park at Underdale back into public hands.

This government wants to protect the Torrens Linear Park from the Hills all the way to the sea. The legislation will prevent any government, present or future, from selling any land forming the Torrens Linear Park unless it obtains the approval of both houses of parliament. It will allow for the acquisition of land where appropriate, and for its inclusion by the minister as designated Torrens Linear Park land. It is also important to note that all existing arrangements in relation to the care and control of the land by government and council will continue unaltered. I commend the bill to the house.

Ms CICCARELLO (Norwood): I will be very brief but also support this bill. The linear park is a significant part of my electorate and runs right through it. As other members have said, it gives a great deal of pleasure, not only to the people in my electorate but also to the people who traverse it. I have taken many people who have visited Adelaide and, in fact, people who live in Adelaide. Sometimes we can say that it is one of our best kept secrets. It is amazing how many people do not know it exists. It started as a flood mitigation program but it has been beautified and now provides people with a wonderful opportunity to go from the foothills down to the sea, and I often do that on a Sunday morning. I ride my bike down to Henley Beach and have a coffee and then ride back home again.

Also, in the St Peter's area we have the Billabong, which is also a great boon to our community and which provides much-needed open space. It is an election promise that we have been able to put into action very quickly, and this is wonderful not only for our community but also for future generations who are now assured of this open space within our city. I commend the bill to the house.

Ms PORTOLESI (Hartley): I also wish to speak very briefly and commend the bill and congratulate the government, of which I am a member. My perspective is slightly different: my perspective is Lochiel Park. This bill complements the fantastic work that this government and Patrick Conlon, in particular, have done in protecting Lochiel Park. Let us remember what the Liberal Party was going to do with Lochiel Park: it was going to carve it up and sell it for development. And what was the former member for Hartley, Joe Scalzi, going to do? He was going to save 20 per cent of Lochiel Park. This government has put its money where its mouth is. We have saved 100 per cent of the open space and we are turning it into a world class model green village. Together with the linear park, this will be a fantastic community asset in my area. I look forward to taking my child there, and I commend the bill.

Mrs GERAGHTY (Torrens): Very briefly, I too wish to give my support publicly to this bill. A lot of work has gone into it, as my colleagues have said. The linear park runs along the boundary of my electorate, and I know that many of my constituents who live along there have a great interest and great pride in the linear park. Even residents who are not fortunate enough, and I am one of those, to live on the boundaries of the park all use it. We use it for walking, for taking our dogs for a walk and for lots of other recreational purposes with our children. I am very pleased that now we

have saved the open space, because we did have great concerns about it. I congratulate particularly minister Conlon, because we have had a look at the proposed plans along Lochiel Park and it is going to be something to behold. Congratulations to everyone involved.

The Hon. J.W. WEATHERILL (Minister for Families and Communities): I also commend the bill to the house. I thank all members opposite and all those on this side who have contributed to the debate. I grew up in a house that abutted the linear park back at Henley Beach south, and many a fond afternoon was spent climbing the hill. I can remember many interesting occasions when people used to go belting along the top riding their horses. Horses are now banned from running along the top there, but I can also remember a young lady who came tumbling down our side of the hill from the linear park one day. I remember catching yabbies with our yabby pots down there, pulling many carp out of the River Torrens, hiding amongst the grass and playing hide and seek with our mates and, occasionally, falling into some manure left behind by those blessed horses, which I understand are still there and likely to remain there for the foreseeable future.

I must say that in bipartisan fashion we should pay credit to the previous government, because it was actually the Tonkin government that did something about this. Some good planning was carried out by the then minister for environment Glen Broomhill in the Dunstan government and, subsequently, the Tonkin government delivered elements of the linear park. The linear park has been a bipartisan position and this puts the icing on the cake. It locks it up to make sure that nobody is tempted in the future to raid this beautiful piece of open space, which should be used for future generations, for our sons and daughters to enjoy themselves as they play on the open space that links the sea to the city and beyond. Indeed, I think it goes all the way up into the Hills.

It is part of a broader plan that I had great pleasure in unveiling when I was planning minister, to provide a network of open space that ringed the metropolitan area, that went along the linear park and then participated in creating a Hills face zone that framed the Adelaide metropolitan area. It is a wonderful initiative and I commend it to the house.

Bill read a second time and taken through its remaining stages.

WATER EFFICIENCY LABELLING AND STANDARDS BILL

Second reading.

The Hon. J.D. HILL (Minister for Health): I move:

That this bill be now read a second time.

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

Leave granted.

I have pleasure in presenting the Water Efficiency Labelling and Standards Bill 2006.

The Water Efficiency Labelling and Standards scheme, known as the WELS scheme, aims to conserve water supplies by providing water-use information to purchasers of water-using products thereby promoting the adoption of efficient and effective water-use technologies and encouraging manufacturers to compete to improve efficiency of water use.

The scheme will provide the opportunity to customers to conserve precious water resources and energy, and provide economic benefits to South Australians.

The regulatory impact statement for the scheme prepared by the Commonwealth Government predicted that once the scheme was in place, 1 140 Megalitres (ML) of water per year would be conserved in South Australia by 2011. By 2021, this is predicted to rise to 5 370 ML of water per year.

By simply choosing more efficient appliances, by 2021 the Australian community stands to save more than $600 million through reduced water and energy bills.

The WELS Scheme is projected to reduce greenhouse gas emissions from electricity and gas use by reducing the amount of hot water used in showers, taps, clothes washers and dishwashers. The energy savings generated by the WELS scheme is estimated to produce a reduction in greenhouse gas emissions of 570 000 tonnes annually within 18 years.

The WELS scheme is a national joint initiative of all Australian State and Territory governments in cooperation with the Commonwealth Government.

This Bill is the South Australian contribution to a national scheme of legislation that was developed by the Environment Protection and Heritage Council with input through the Natural Resource Management Ministerial Council. It seeks to create a comprehensive and seamless scheme which is not possible using Commonwealth Government powers alone, in particular where trade is solely within South Australia.

The Commonwealth will administer the scheme which removes the necessity of South Australia setting up a regulatory unit.

The Bill allows the Commonwealth regulator to exercise powers in relation to South Australian manufacturers and retailers which are not incorporated or engaged in intrastate trade.

Within South Australia there is little manufacturing of water-using appliances solely for intrastate trade, hence the application of the South Australian WELS legislation will be limited. Nevertheless, passing of this legislation will reinforce the message from South Australia that Parliament is committed to implementing cost-effective water conservation measures. It will also allow South Australia to be represented on the WELS Advisory Committee, which advises on new products to be considered, new minimum standards, review of the legislation, and setting of budgets.

At the Council of Australian Governments' meeting on 25 June 2004, the Commonwealth Government and State and Territory Governments signed the *Intergovernmental Agreement on a National Water Initiative*.

Under the National Water Initiative agreement, States and Territories agreed to an urban water reform program, aimed at:

(i) providing a healthy, safe and reliable water supplies;

(ii) increasing water use efficiency in domestic and commercial settings;

(iii) encouraging the re-use and recycling of wastewater where cost effective;

(iv) facilitating water trading between and within the urban and rural sectors;

(v) encouraging innovation in water supply sourcing, treatment, storage and discharge; and

(vi) achieving improved pricing for metropolitan water.

Parties to the National Water Initiative agreed to the "implementation and compliance monitoring of WELS, including mandatory labelling and minimum standards for agreed appliances" by the end of 2005.

The Commonwealth *Water Efficiency Labelling and Standards Act 2005* was assented to on 18 February 2005. Complementary legislation is already in place in New South Wales, Victoria, Australian Capital Territory and Tasmania. Legislation is currently before the Western Australian Parliament. New Zealand is still in the discussion stage regarding its proposed WELS legislation.

The State legislation is based on model legislation developed by the Victorian Government in consultation with the Office of Parliamentary Counsel in the other States and Territories. The use of the Victorian Act as a model for corresponding Bills in all other States and Territories is to ensure national consistency that is desirable from the point of view of both industry and administrators of the legislation.

The South Australian Bill differs from the Commonwealth legislation and the Victorian model where specific wording is needed to meet the requirements of South Australian drafting conventions.

The scheme replaces the voluntary water labelling scheme which has been managed by the Water Services Association of Australia.

WELS will operate in conjunction with the voluntary *Smart Approved Water Mark Scheme*, which targets mainly domestic outdoor appliances, for which there are currently no rating standards.

The WELS scheme will be similar in nature to the national energy efficiency labelling scheme for electrical appliances, which

has seen substantial energy efficiency improvements for household appliances.

Consultation with Australian industry, including importers, has been extensive and is ongoing, with very positive and supportive feedback to date. Product suppliers and retailers actively support the introduction of a mandatory water efficiency labelling program. Many of the water authorities and the plumbing industry regulators have also advocated the immediate introduction of the scheme. The Water Services Association of Australia is supportive of the mandatory scheme.

The WELS intergovernmental agreement between the Government of South Australia and the Australian Government was signed on 6 November 2005.

The agreement provides for the cooperative oversight of the scheme.

A National Water Efficiency and Standards Advisory Committee made up of one representative of each State and Territory and a chairperson appointed by the Commonwealth Minister has been established under the WELS intergovernmental agreement. The National Water Efficiency and Standards Advisory Committee will be able to consult representatives from industry, environment and consumer groups where appropriate.

The Australian Government **has provided** the funds required for the establishment and operation of the regulatory system under the scheme until 30 June 2005. The legislation provides for cost recovery through the charging of application and licence fees, to the extent consistent with Commonwealth Government policy on cost recovery. Manufacturers will pay the cost recovery charges to the Commonwealth Regulator, on a per product model basis, when registering their products with the Regulator. Fees charged to manufacturers will be $1 500 per product model registered. The parties to the intergovernmental agreement will provide any other funds required for the ongoing operation of the regulatory system under the scheme from 1 July 2005 in accordance with the usual Environment Protection and Heritage Council formula—- namely, 50 per cent Commonwealth Government funds and 50 per cent from the States and Territories on a pro rata population basis.

This is estimated to be around $10 000 per annum for South Australia.

The Commonwealth Government has developed a communications plan. It is expected that this will be reinforced by each state. To date communications has been mainly with the manufacturing and retail industry.

The Water Efficiency Labelling and Standards Bill brings considerable benefits for water and energy conservation to the people of South Australia.

It is an important element of the South Australian Government's plan to reduce urban water consumption and secure Adelaide's long-term water requirements under the Water Proofing Adelaide Strategy. But it will also have flow-on benefits to commerce and some industry and to Outback South Australia where water resources are scarce.

There may be reduced need for infrastructure spending, more effective water demand and resource surety, reduced water treatment and sewage treatment requirements.

The WELS scheme will therefore provide substantial benefits.

I commend the Bill to the House.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

3—Objects of Act

Clause 3 sets out the objects of the Bill. The Bill is intended to ensure that purchasers of particular types of water-use and water-saving products are provided with information to assist and encourage them to select more water-efficient products. It is also intended to encourage (and in some cases require) suppliers of these products to adopt more water-efficient technology. Ultimately, it is envisaged that the purchase of more water-efficient products will result in reduced water consumption, thus contributing to the conservation of water supplies.

3A—Numbering consistent with Commonwealth Act

Clause 3A explains the numbering scheme adopted in the Bill. It is designed for consistency with the Commonwealth Act. The clause also points readers to the Schedule for a comparison of the provisions of the Bill with the provisions of the Commonwealth Act. The Schedule is designed to assist readers in understanding the overall national scheme.

4—Act binds Crown

Clause 4 provides that the measure binds the Crown in right of this State and also, so far as the legislative power of the State extends, the Crown in all its other capacities, but not so as to impose any criminal liability on the Crown.

Part 2—Interpretation

7—Definitions

Clause 7 defines several terms used in the Bill.

Part 3—National WELS scheme

8—WELS scheme to be national cooperative scheme

Clause 8 notes that this Bill is intended to form a part of a cooperative scheme between the Commonwealth and the States and Territories. All State and Territory Ministers have agreed in principle to introduce complementary "mirror" legislation to operate in conjunction with the Commonwealth Act. The effect of the complementary legislation will also be to compensate for the jurisdictional gaps in the coverage of Commonwealth powers in relation to the operation of the WELS Scheme.

10—Relationship to other State laws

Clause 10 clarifies that the provisions of this Act do not replace or override any existing State laws.

12—Meaning of corresponding law

Clause 12 defines "corresponding law".

16—No doubling up of liabilities

Clause 16 prevents persons from being punished or penalised twice for an offence under this Bill, if they have already been punished or penalised for the same offence under the Commonwealth Act.

Part 4—WELS products and WELS standards

21—Meaning of WELS labelled

Section 18 of the Commonwealth Act enables the Commonwealth Minister to determine that certain products are covered by the WELS scheme and set out standards for those products. Before such a determination can be made, however, the Commonwealth Minister must have the agreement of a majority of the participating States and Territories to the terms of the determination. A "participating State or Territory" is one in which there is a corresponding State-Territory law within the meaning of the Commonwealth Act. Section 19 of the Commonwealth Act states what must be set out in WELS standards and enables the standards to require products to be registered or labelled for the purposes of specified supplies.

Clause 20 enables a WELS standard to impose labelling requirements for WELS products. The clause allows the labelling requirements may relate to—

- the characteristics, contents, placement and quality of labels attached to products or displayed on product packaging;
- documents or other material used for, or provided in connection with, the supply of the product;
- advertising the product.

Part 5—WELS Regulator

22—Functions of Regulator

Under the Commonwealth Act the Commonwealth Secretary (ie currently the Secretary of the Department of the Environment and Heritage) is the Regulator. Clause 22 sets out the functions of the Regulator, which are essentially to oversee the operation of the scheme, and include—

- To administer the WELS scheme: The Regulator will, inter alia, receive and process applications for registration and issue registrations, fund and provide WELS inspectors, and administer operation of the WELS Account established under the Commonwealth Act.
- To undertake or commission research in relation to water-use and water-saving products, and provide advice in relation to determining that water-use or water-saving products are WELS products: The Regulator will evaluate which products should be subject to the scheme and the provisions that should apply to them and advise on this. The intent of this provision is to provide for a mechanism that will continuously identify products to be included in the scheme over time, and possibly also some products that no longer ought to be included.
- To undertake or commission research in relation to WELS standards and their effectiveness in reducing

water use, provide advice to the Minister about the operation of WELS standards, and assist in the development of WELS standards: The Regulator will evaluate the standards that should apply to particular WELS products and the effectiveness of standards in meeting the objects of the Act, and advise the Minister on this, as well as contributing to work to develop standards. (This could result in changes to standards. Some products might need to be modified in order to comply with the revised standards, or have their registration withdrawn.)

· To provide information and advice to the public, the Minister and the relevant chief executive about the operation of the WELS scheme: The office of the Regulator will be the principal contact point for members of the public on the WELS scheme and will be responsible for the preparation and dissemination of information regarding the scheme. It will also provide advice to, and circulate information on behalf of, government.

· Such other functions as are conferred on the Regulator by this Act, the regulations or any other law.

23—Powers of Regulator

Clause 23 empowers the Regulator to do all things necessary or convenient to be done for or in connection with the performance of these functions.

24—Arrangements with other agencies

Clause 24 provides for the Regulator to make arrangements with other government agencies to assist with carrying out functions and duties and exercising powers under the Act. Other agencies may have expertise in areas relevant to the operation of WELS, and it may increase efficiency and cost-effectiveness for the Regulator to draw on this. For example, it is envisaged that the certain State consumer affairs agencies could assist with compliance and enforcement action.

25—Delegation

Clause 25 provides for the Regulator to delegate powers to other State/Territory or Commonwealth officers (subject to the Regulator's directions). It is envisaged that much of the work undertaken to fulfill the Regulator's functions will be carried out by officers within the Regulator's Department, so it will be necessary for the Regulator to delegate powers to the principal officers involved. Also, given the provision under clause 24 for the Regulator to make arrangements with State government agencies to assist with carrying out functions, it would be necessary for the Regulator's capacity to delegate to be extended to relevant officers of such agencies. Delegation of powers to a State government officer or employee is subject, however, to the agreement of the State.

Part 6—Registration of WELS products

26—Applying for registration

Clause 26 provides for the manufacturer (who may be defined for the purposes of this Bill by regulation under the Commonwealth Act) of a WELS product to apply for registration of the product. The purpose of registration is to develop better knowledge of the market and assist with compliance monitoring and enforcement of the WELS scheme. Information obtained through registration will be used to assess whether products comply with the relevant standards and to determine the appropriate rating labels. While it is intended that some types of WELS products will not be subject to mandatory registration, because the benefits of subjecting them to the scheme appear to be marginal, it will still be possible for products of those types to be voluntarily registered, so that, for example, the manufacturer of a water-efficient product of that type who wishes to demonstrate the product's water-efficiency is able to do so. Once a product has been registered, even if registration for that product is optional, the product must comply with any registration requirements, including labelling requirements, set out in the applicable WELS standard.

27—Documentation etc to be provided with application for registration

Clause 27 applies the requirements set out under the Commonwealth Act as to how an application for registration is to be made and the conditions that must be met to maintain registration. Subject to disallowance by either House of the Commonwealth Parliament, the Commonwealth Act provides for the Commonwealth Minister to specify the form an application is to take, together with the documentation and registration fee that is to accompany the application. It is intended that the documentation required of applicants for registration of a WELS product is to include evidence of the results of testing the product against the relevant WELS standard, as well as (where relevant) a sample of the water efficiency label to be used for the product. It is also intended to charge a registration fee at a level sufficient to cover the costs of administering the WELS scheme, in line with Commonwealth Government cost-recovery policies.

28—Registration of products

Clause 28 requires the Regulator to register, by notice published in the Commonwealth of Australia Gazette, a WELS product for which an application for registration has been received and approved by the Regulator, or, where an application for registration has been refused, to give the applicant written notice of the refusal. If the Regulator has neither registered the product nor notified the applicant of refusal within 3 months of the application being made, the application is automatically taken to have been refused.

29—Grounds for refusing to register

Clause 29 specifies grounds on which the Regulator may refuse to register a WELS product. These are that the application has not been made in accordance with the requirements of clause 27, that the Regulator is not satisfied as to the accuracy of the information provided in the application, or that the product fails to satisfy the requirements of the relevant WELS standard.

30—Period of registration

Clause 30(1) provides for 5 year registration periods for WELS products (unless the registration is cancelled or suspended under clause 31). A 5 year registration period has been stipulated to mirror the arrangements in place for the existing energy labelling program and is accepted by industry as a suitable registration period due to the rapid changes in technology and the frequent introduction of new models. However, if during the registration period for a WELS product the Commonwealth Minister makes a determination on a new or revised WELS standard, subclause (2) provides that existing registrations under the superseded standard will expire 12 months after the introduction of the new or revised standard. If the Commonwealth Minister extends that 12 month period for the corresponding provision of the Commonwealth Act, subclause (3) applies that extension to the South Australian Act.

31—Cancelling or suspending registration

Clause 31 empowers the Regulator to cancel or suspend the registration of a WELS product where conditions of registration are not being complied with or where the Regulator subsequently becomes aware that the information provided in the application for registration was not accurate at the time of application or is no longer accurate because changes have been made to the product. In circumstances where the Regulator determines that the registration of the WELS product is to be suspended or terminated, the Regulator is required to provide the person on whose application the product was registered with written notice of the cancellation or suspension of registration of the WELS product. Subclause (3) requires the Regulator to cancel a registration upon request from a manufacturer of a WELS product, in circumstances where the current WELS standard for that product type does not require the product to be registered. This provision is for the benefit of manufacturers who no longer wish to register WELS-label products that are not required to be registered.

Part 7—Offences relating to supply of WELS products

Division 1—Applicable WELS standards

32—Meaning of applicable WELS standard

Clause 32 defines "applicable WELS standard" as the standard under which a WELS product is registered or, where the product is not registered, the most recent WELS standard relating to that type of product.

Division 2—Registration and labelling

33—Registration requirement

Clause 33 makes it an offence to supply an unregistered WELS product where the applicable standard requires the product to be registered.

34—Labelling registered products

Clause 34 makes it an offence to supply a registered WELS product without a label, where the applicable standard

requires the product to carry a label if registered. (Note: in some cases, a product may not be required to be registered, but the standard may specify that if the product is registered, it must carry a label. In such a case, it would not be an offence for the product not to be registered, but if it were registered, it would then be an offence for it not to carry a label.)

Division 3—Minimum efficiency and performance requirements

35—Minimum water efficiency—products required to be registered

Clause 35 makes it an offence to supply a WELS product required to be registered that does not comply with minimum water efficiency requirements specified in the applicable WELS standard.

36—Minimum general performance—products required to be registered

Clause 36 makes it an offence to supply a WELS product required to be registered that does not comply with minimum performance requirements specified in the applicable WELS standard.

Division 4—Misuse of WELS standards etc

37—Misuse of WELS standards and information

Clause 37 makes it an offence to use a WELS standard or information included in a WELS standard, in a manner that is inconsistent with the standard, for example, by supplying a labelled product that is not registered.

38—Information inconsistent with WELS standards

Clause 38 makes it an offence to use information for or in relation to supply of a WELS product, that is inconsistent with information in the applicable WELS standard. For example, this would include supplying a product with additional labels or markings of a type that contradict the message of the approved label.

39—Using information in supply of products

Clause 39 elaborates on the meaning of using information for the purposes of clauses 37 and 38. Without limiting the general meaning of words used in those clauses, it specifies that information is used for, or in relation to, the supply of a product if the information is conveyed on or by a label, packaging, document or other material provided with or in connection with the product or any advertising relating to the product.

Offences against clauses 33, 34, 35, 36, 37 and 38 are all intended to be offences of strict liability to which the common law defence of honest and reasonable mistake of fact applies. Strict liability is imposed to facilitate the expedient enforcement of the provisions given that there are expected to be a high number of inadvertent contraventions of the Act. A strict liability regime is intended to facilitate the imposition of penalties for the physical elements of the offences without proof of fault. Without a strict liability regime in place, it would be very difficult to enforce these provisions.

Division 5—Extensions of criminal responsibility

39A—Attempts

Clause 39A makes it an offence to attempt to commit an offence against Division 2, 3 or 4 punishable by a maximum fine of 60% of the maximum fine for the offence attempted to be committed.

39B—False or misleading information or document

Clause 39B makes it an offence to give false or misleading information or produce a false or misleading document in connection with an application to the Regulator or in complying or purporting to comply with this Act (other than Division 4 of Part 9) or the regulations.

Part 8—Other enforcement

Division 2—Publicising offences

41—Regulator may publicise offences

Clause 41 allows the Regulator to publicise convictions against the Act, without placing any limitations on the Regulator's powers in this regard. Nor does it prevent anyone else from publicising an offence against the Act or affect any obligation on anyone to publicise an offence against the Act. It is envisaged that publicising offences against the Act will act as a deterrent to others against further offences against the Act.

Division 3—Enforceable undertakings

42—Acceptance of undertakings

Clause 42 enables the Regulator to accept undertakings (or variations to or withdrawal of undertakings) in connection with matters relating to compliance with a WELS standard or registration condition. This provision is intended to act as an alternative to prosecution in those circumstances where non-compliance with the Act would otherwise result in an offence in relation to the compliance with a WELS standard or a registration condition.

43—Enforcement of undertakings

Clause 43 provides for the Regulator to apply to the District Court, where the Regulator considers that a person has breached any terms of an undertaking given under clause 42, for an order to direct the person either to comply with the terms of the undertaking, pay the State an amount up to that of any financial benefit the person has gained as a result of the breach, compensate any other person for loss or damage resulting from the breach, or anything else that the Court considers appropriate.

Division 4—Injunctions

44—Injunctions

Clause 44 empowers the District Court, on the application of the Regulator, to grant an injunction either to restrain a person who is engaging in or proposing to engage in conduct constituting an offence against the Act from engaging in that conduct, or to require the person to take such specified action as the Court determines in order to comply with the Act. Subclause (2) empowers the Court, on application, to grant an injunction, by consent of all parties to the proceedings regardless of whether the Court is satisfied of the commission or potential commission of an offence. Subclause (3) enables the Court to grant an interim injunction pending its determination of an application. The purpose of this is to enable the court to prevent any potential damage, destruction or the removal of the products from the jurisdiction while it is considering the application. Subclause (4) prevents the Court from requiring the Regulator or anyone else to give an undertaking as to damages as a condition of granting an interim injunction. Subclauses (5), (6) and (7) enable the Court to discharge or vary the injunctions referred to above.

Part 9—WELS inspectors

Division 1—Appointment of WELS inspectors

45—Regulator may appoint WELS inspectors

Clause 45 empowers the Regulator to appoint State and Commonwealth government officers and employees as WELS inspectors. The appointment of State government officers and employees as WELS inspectors is, however, subject to the agreement of the State. This clause also requires WELS inspectors to comply with any directions of the Regulator in exercising their powers or performing their functions as WELS inspectors.

46—Identity cards

Clause 46 requires the Regulator to issue photographic identity cards (the form of which is to be prescribed by regulation under the Commonwealth Act) to all WELS inspectors. It requires that WELS inspectors must carry their identity cards at all times while operating as WELS inspectors. Subclause (3) makes it an offence for WELS inspectors to fail to return their identity cards to the Regulator as soon as practicable after ceasing to be WELS inspectors. Subclause (5) prohibits a WELS inspector from exercising powers as a WELS inspector without being able to produce his or her identity card at the request of the occupier of premises to be inspected.

46A—Offences in relation to WELS inspectors

Clause 46A makes it an offence to hinder or obstruct or impersonate a WELS inspector.

Division 2—Powers of WELS inspectors

47—Purposes for which powers can be used

Clause 47 as a general provision, enables WELS inspectors to exercise their powers for the purposes of determining whether a person is complying with the Act or regulations or for the purposes of investigating offences against the Act or regulations.

48—Inspection powers—public areas of WELS business premises

Clause 48 allows WELS inspectors, in exercising their powers, to enter WELS business premises at any time when the premises are open to the public (ie during normal business hours) to monitor compliance with the Act, and to do

essentially the same things as members of the public are able to do on the premises during normal business hours, including inspecting WELS products; purchasing any WELS product that is available for sale; inspecting or collecting written information, advertising material or any other documentation that is available to the public; discussing product features with any person; or observing practices relating to the supply of products. However, this does not affect any rights of occupiers to refuse to allow inspectors on their premises.

49—Inspection powers—with consent

Clause 49 allows a WELS inspector to otherwise enter premises with the consent of the occupier of the premises. In seeking the consent of the occupier, the WELS inspector must make the occupier aware that he or she may refuse or withdraw consent at any time.

50—Refusing consent is not offence

Clause 50 makes it clear that it is not an offence for occupiers of WELS premises to refuse to allow WELS inspectors to enter or remain on their premises without a warrant.

51—Inspection powers—with warrant

Clause 51 authorises a WELS inspector to enter premises with a warrant, irrespective of the occupier's consent. WELS inspectors who do enter premises with consent or with a warrant are provided general powers of search, inspection and information gathering. This clause also empowers a WELS inspector (who has entered premises with a warrant) to require any person on the premises to answer questions and produce documentation. Failure to comply with such a request from a WELS inspector is an offence. This clause also empowers the inspector to seize or secure any evidential material on the premises and ensures that the Regulator has the powers needed to take immediate action to secure evidence relevant to an investigation or prosecution. (Note that clauses 55, 56 and 57 set out requirements relating to seizing, securing and holding of evidential material).

52—Announcement before entry under warrant

Clause 52 requires a WELS inspector, before entering WELS premises under a warrant, to announce that he/she is authorised to enter the premises and to provide any person at the premises the opportunity to allow entry. However, a WELS inspector need not comply with this if he or she reasonably considers that immediate entry is necessary to ensure the effective execution of the warrant.

53—Copy of warrant to be given to occupier

Clause 53 requires a WELS inspector to give to the occupier of premises (if present) a copy of the warrant being executed in relation to the premises and identify himself or herself to the occupier. The copy of the warrant need not include the signature of the magistrate who issued the warrant. (Note: this is to allow for clause 59 urgent warrants, where there may not be an opportunity to obtain the magistrate's signature before executing the warrant.)

54—Occupier must provide inspector with facilities and assistance

Clause 54 makes it an offence for the occupier of WELS premises (at which a warrant is being exercised), not to provide the WELS inspector executing the warrant with all reasonable facilities and assistance for the effective execution of the warrant.

55—Seizing or securing evidential material

Clause 55 requires a WELS inspector who seizes or secures evidential material to issue a receipt for such material to the occupier of the premises. The Regulator is permitted to make copies of the material, and to examine or test the material, even if that might result in damage to the material. The Regulator is, however, required to return or release the material when it is no longer needed for the purposes for which it was seized or secured, or within 90 days at the latest. The purpose of this provision is to prevent businesses from being impeded for longer than is necessary.

56—Holding evidential material for more than 90 days

Clause 56 enables the Regulator to apply to a magistrate for an order allowing possession or control of the material for a further specified period than the 90 days provided for by clause 55. In determining an application, the magistrate must allow the owner of the material to appear and be heard, and must not make an order for the extended possession or control of evidential material unless satisfied that it is necessary for the purposes of prosecuting an offence against this Act.

57—Returning evidential material

Clause 57 allows the Regulator to dispose of evidential material, as the Regulator thinks appropriate, where the Regulator is unable to locate the owner of the material despite making reasonable efforts.

Division 3—Applying for warrants to enter WELS premises

58—Ordinary warrants

Clause 58 enables a magistrate to issues a warrant to a WELS inspector, if the magistrate is satisfied that entering the premises is necessary to determine whether a person is complying with the Act or regulations or to investigate a possible offence against the Act. The magistrate may require further information to be provided with a warrant application in order to determine the need or otherwise for the warrant to be issued. A warrant authorises the WELS inspector to enter the premises using such assistance and force as is necessary and reasonable. The warrant must state the purpose for which it is issued, indicate when the entry is authorised, and specify the day on which it ceases to have effect (warrants may be issued for a maximum of one week).

59—Warrants by telephone, fax etc

Clause 59 allows for a WELS inspector to apply for an urgent warrant by telephone, fax or other electronic means. Where practical, the magistrate may require communication by voice and may record such communication. In such circumstances, before applying for the warrant the WELS inspector must still prepare information setting out the grounds on which the warrant is sought and of the necessity to enter the WELS premises, but if necessary the WELS inspector may apply for the warrant before the information is sworn or affirmed. If the magistrate is satisfied that there are reasonable grounds for doing so, he/she may then issue a warrant as if the application had been made under clause 58. The magistrate must then advise the WELS inspector of the terms of the warrant, the day on which and the time at which the warrant was signed, specify the day on which it ceases to have effect (warrants may be issued for a maximum of one week), and record on the warrant the reasons for its issue. The WELS inspector must complete a form of warrant in the same terms as advised by the magistrate and record the name of the magistrate and the time and date on which the warrant was signed. The WELS inspector must send this form of warrant to the magistrate within one day after the execution or expiry (whichever is earlier) of the warrant, together with duly sworn or affirmed information pertaining to the grounds on which the warrant was sought. The magistrate is then required to attach these documents to the warrant and deal with them as if they were an ordinary warrant under clause 58.

Division 4—Giving WELS information to WELS inspectors

60—Meaning of person who has WELS information

Clause 60 defines a "person who has WELS information" as being a person whom the Regulator believes to be capable of providing information relevant for the purposes of investigating or preventing an offence under the Act.

61—Regulator may require person to provide information

Clause 61 enables the Regulator, by written notice, to require a person who has WELS information to provide such information, documents or records as specified in the notice to a WELS inspector within a specified period of not less than 14 days.

62—Regulator may require person to appear before WELS inspector

Clause 62 enables the Regulator, by written notice, to require a person who has WELS information to appear before a WELS inspector in order to answer questions and provide to the inspector documents or records referred to in the notice, within a specified period of not less than 14 days. It is an offence not to comply with requirements under clauses 61 and 62. Notices given by the Regulator under clauses 61 and 62 are required to set out the effect of clause 62A.

62A—False or misleading information or documents

Clause 62A makes it an offence to knowingly give false or misleading information, or produce false or misleading documents, to the WELS inspector.

Division 5—Privilege against self incrimination

63—Privilege against self incrimination not affected

Clause 63 provides that a person is not obliged to answer questions, give information or produce documents where to do so might entail self-incrimination.

Part 10—Money

Division 1—WELS Account

65—Credits to WELS Account

Clause 65 requires all money received by the State in respect of fines, expiation fees or undertakings and all money received by the State under Division 2 of Part 10 to be paid to the Commonwealth for crediting to the WELS Account (established under the Commonwealth Act).

66—Purpose of WELS Account

Clause 66 identifies the purposes of the WELS Account as being to make payments for furthering the objects of the Act and for other reasons connected with the performance of the Regulator's functions and the administration of the Act and regulations.

Division 2—Charging fees etc

67—Regulator may charge for services

Clause 67 enables the Regulator to charge fees for services provided in the performance of the Regulator's functions. This provides the option to run the scheme on a cost-recovery basis. It has been established (*Attorney-General v Wilts United Dairies Ltd* (1921) 38 TLR 781) that the imposition of fees or charges in respect of the performance of statutory duties needs to be authorised expressly by legislation or by necessary implication, which is the purpose of this clause. To avoid the imposition of taxation, any fees would be charged in respect of activities and services provided by the Regulator for the benefit of the fee payer, and the level of fees would be reasonably related to the costs of performing that function.

68—Recovery of amounts

Clause 68 allows for the recovery of fees and other amounts payable to the State in connection with the WELS scheme as a debt due to the State.

Part 11—Review of decisions

69—Meaning of reviewable decision and affected person

Clause 69 defines a "reviewable decision" as a decision by the Regulator to refuse to register a WELS product under clause 29 or to cancel or suspend the registration of a WELS product under clause 31. It also defines an "affected person" as a person whose application to register a WELS product has been refused or whose WELS product has had its registration cancelled or suspended.

70—Notification of decisions and review rights

Clause 70 requires the Regulator to ensure that the affected person, in relation to a reviewable decision, is given written notice containing the terms of the decision, reasons for the decision and information regarding the person's review rights. Nevertheless, failure to comply with this provision does not affect the validity of the decision.

71—Internal review

Clause 71 provides for an affected person to apply for internal review by the Regulator of a reviewable decision made by a delegate of the Regulator. The Regulator is then required to review the decision personally. The Regulator may affirm, vary or revoke the decision and substitute such other decision as he/she sees fit. An application for internal review must be made within 30 days of receipt of the decision by the applicant.

72—Review of decisions by District Court

Clause 72 is peculiar to South Australia and provides for appeals to the District Court against reviewable decisions and decisions in internal reviews.

Part 12—Miscellaneous

72A—Imputation in proceedings of conduct or state of mind of officer, employee etc

Clause 72A provides that the conduct and state of mind of an officer, employee or agent of a body corporate acting within the scope of his or her actual, usual or ostensible authority will be imputed to the body corporate.

The conduct and state of mind of an employee or agent of a natural person acting within the scope of his or her actual, usual or ostensible authority will be imputed to that person. In this case if the natural person would not have been convicted of an offence but for this provision, the person is not liable to imprisonment.

72B—Liability of officers of body corporate

Clause 72B provides that if a body corporate commits an offence, each officer of the body corporate guilty of an offence unless it is proved that the alleged contravention did not result from any failure on the officer's part to take all reasonable and practicable measures to prevent the contravention or contraventions of the same or a similar nature

73—Compensation for damage to electronic equipment

Clause 73 requires the Regulator to pay compensation to the owner of electronic equipment or the user of data or programs, where in the course of the operation of such equipment as provided for in clause 49, damage or corruption results to the equipment, data recorded on the equipment or programs associated with the use of the equipment or data, arising from insufficient care being exercised by the person operating the equipment or in selecting that person to operate the equipment. Where the Regulator and the affected person disagree over the amount of the compensation, the person may take the matter to the District Court to determine. In determining the compensation payable, the Court is to have regard to whether the occupier, or the occupier's employees and agents had provided appropriate warning or guidance on the operation of the equipment.

75—Annual report

Clause 75 requires the Minister to table in both Houses of Parliament within 15 sitting days each annual report of the Regulator received on the operation of the WELS scheme.

76—Review of operation of WELS scheme

Clause 76 requires the Minister to table in both Houses of Parliament within 15 sitting days the report received of the independent review of the WELS scheme carried out under the Commonwealth Act after the scheme has been in operation for 5 years.

77—Regulations

Clause 77 provides for the making of regulations prescribing matters necessary or convenient to be prescribed for the purposes of the Act. This may include (but is not limited to) prescribing fees, penalties and expiation fees.

Schedule 1—Comparison with Commonwealth Act

Schedule 1 contains a table comparing the provisions of the Commonwealth Act as at the date that Act came into operation with the provisions of this Act as at its date of assent.

Mr GRIFFITHS (Goyder): I confirm that the Liberal Party supports the bill. We note that South Australia is one of the last states to pass this legislation. The Water Efficiency Labelling and Standards scheme (WELS) is a joint initiative of all state and territory governments as part of the National Water Initiative, in cooperation with the commonwealth government, which aims to conserve water by producing water economy information to purchasers of water-using products. Consumers will recognise the WELS scheme as the star water ratings system that appears on water-using products.

As I understand it, this bill seeks to make South Australia part of the national scheme by having our legislation mirror that of the commonwealth. The scheme will be administered by the commonwealth WELS Advisory Committee and, hence, will not require South Australia to set up its own regulatory bodies. Parties to the National Water Initiative have agreed to the implementation and compliance monitoring of WELS, including mandatory labelling and minimum standards for agreed appliances by the end of 2005. The scheme will take the place of the voluntary water labelling scheme, which has been managed by the Water Services Association of Australia.

The bill provides for cost recovery through the charging of application and licence fees, consistent with commonwealth government policy on cost recovery. The parties to the intergovernmental agreement will provide any other funds required for the ongoing operation of the regulatory system under the scheme from 1 July 2005, in accordance with the

usual Environment Protection and Heritage Council formula, which means that 50 per cent will be commonwealth government funds and 50 per cent will come from the states and territories. I understand that the cost to South Australia is expected to be in the order of $10 000 per annum. The commonwealth government has predicted that, once the scheme is in place, some 1 140 megalitres of water will be conserved in South Australia by 2011. I confirm my support for the bill.

The Hon. J.D. HILL (Minister for Health): I thank the opposition for its support not only with respect to the bill but also the processes we have gone through today to have it dealt with in all its stages. I commend the bill to the house. It puts us in line with the rest of the commonwealth. The measures generally will have a big impact in South Australia, but I understand that this legislation covers only a handful of producers who trade only within the state borders. Those who trade outside the state borders are already captured by the commonwealth legislation, so this creates the consistency that we want. It is a very sensible measure and, as I said, I commend it to the house. I also thank parliamentary counsel and the advisers from the department, who have helped to create this piece of legislation.

Bill read a second time.

In committee.

Clauses 1 to 63 passed.

Clause 65.

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

To insert clause 65.

This is a formality. It will be seen that this clause is in erased type and is not at present formally in the bill.

Clause inserted.

Remaining clauses (66 to 77), schedule and title passed.

Bill reported with amendment.

Bill read a third time and passed.

DEVELOPMENT (PANELS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 8 June. Page 519.)

Mr GRIFFITHS (Goyder): I indicate that, with respect to this bill, I am the lead speaker for the opposition. Also, I confirm that, after lengthy debate in the Legislative Council on several amendments, the opposition is prepared to accept the bill in its current form subject to one additional amendment that will be proposed by the government today. In my brief parliamentary career, this bill has occupied more of my time than any other. I respect the fact that this level of involvement is based upon the fact that I enter this place following a career in local government and, as a direct association, a long period of involvement with the consideration of planning and development matters. As such, there has been an expectation within the opposition that my knowledge of the practical application of these matters would be an advantage.

One thing that has long been clear to me is that planning is not a perfect science. The inclusion in development plans of words such as 'shall' and 'may' instead of 'must' and 'should' create situations in which individual interpretations of the appropriateness of a development application occur all the time. I have witnessed first hand, on a few occasions admittedly, poor decision-making by elected members who are representatives of development assessment panels. However, and overwhelmingly I must add, I have had the privilege of being involved in discussions where elected development assessment panels members have made the absolutely correct decision, often in the face of considerable community disharmony, because their development plan was clear on how the application should be considered.

One example of this is the Troubridge Point Wind Farm near Edithburgh in the south-eastern corner of Yorke Peninsula. This wind farm was developed at a cost of $165 million. It has 55 turbines and, at the time of being opened by the Premier in April 2005, it was able to generate some 2 per cent of the electricity needs of South Australia. The assessment of this application did not just involve the consideration of a glossy publication and professional speech from the developers; it involved considerable time, effort and negotiation. An example of the willingness of the development assessment panel of the District Council of Yorke Peninsula to make the right decision was the fact that development assessment panel members and appropriate staff travelled to Portland in Victoria to view the 15 turbine wind farm there, thus enabling the size of these things—and they are enormous—and their effect upon the landscape to be understood.

I am aware that not all members of this place hold local government in the same esteem as I do. Perhaps I have been brainwashed, but perhaps I have also had the opportunity to fully appreciate what local government does with its available resources. In reading *Hansard* from the Legislative Council, I noted a number of comments, reportedly from unnamed local government elected members, that their fellow councillors did not understand how they should undertake their development assessment panel role. It is difficult to grasp the concept that election to a development assessment panel suddenly means that you must completely remove the ability to be lobbied by people about matters, that, in effect, you completely disregard your elected member role to represent people, and that suddenly you put on a hat that demands that you assess an application solely upon the development plan provisions. Some councillors never make the transition, but the majority do.

Local government is an often thankless task, but I genuinely believe that the absolute majority of elected members nominate for the position purely on the basis of wanting to serve their community. Sacrifices are made, in time and family, to fulfil roles that are worthy of praise, not ridicule, from the community. The introduction of the interestingly named Sustainable Development Bill in 2005, a seemingly all-encompassing piece of legislation designed to handle all matters involving planning, became a very difficult piece of legislation to handle. The Local Government Association, and presumably all member councils, expressed their displeasure about many aspects of the bill. The government then made the decision to break this bill into manageable parcels and, accordingly, has introduced the Development (Panels) Amendment Bill and is intending to submit additional pieces of legislation to the parliament at a later date.

I trust that these pieces of legislation will be prepared soon, as it is clear to me that the absolutely critical area of planning, as with any project, is in the preparation. In a planning sense, this is a development plan or plan amendment report. Local government has long lived with the frustration of preparing what it sees as a suitable draft planning vision—it engaged the community, considered comments received and made the appropriate amendments—only to have the

process delayed within the Planning SA system. However, I am convinced that this delay is not a deliberate tactic but purely a matter of a lack of the skilled physical resources necessary to ensure that all plan amendment report proposals are being considered within an acceptable time frame. Sadly, there can be little doubt that these delays, and the inability of local government across the state to attract good, skilled planning staff, is due to a severe skills shortage.

While many letters and telephone calls, predominantly from local government people, have been received, written submissions made to the opposition on this bill were received from the South Australian division of the Planning Institute of Australia; the South Australian branch of the Urban Development Institute of Australia; and the Local Government Association of South Australia. For each of these submissions detailed discussions also occurred in which all members of the opposition were invited to take part. The needs of business in ensuring that transparency of consideration and surety of decisions is also recognised. Interestingly, it is noted that 95 per cent of the development applications considered across the state in recent times were handled by staff under delegated authority. This is a very pleasing result, as it identifies that in the absolute majority of cases the development plan is working appropriately, and elected members have recognised that, for their processes to work properly, allowing staff to do what they are employed to do does work.

One clear message, I believe, that came from all of these submissions was the fact that the current system was a good one; not the best unfortunately, but a good one. However, the Liberal Party acknowledges that as a state we must strive for excellence, otherwise it will be difficult for us to compete on a national and international stage. The areas of the bill relating to the operation of the Development Assessment Commission have not, to my knowledge, been the subject of any debate. My notes from reading the legislation are that all these changes are quite reasonable and recognise accepted practices. Similarly, the areas proposing amendment to section 34 of the Development Act are also appropriate. The local government concerns related to this bill dealt with four issues, those being whether or not local councils should be required to have independent members on the development assessment panel; who should appoint the development assessment panel members and if the minister should have the requirement to concur in those appointments; if the independent members of the development assessment panel should be in the majority; and the cost of operating the development assessment panel.

I am pleased that amendments supported in the Legislative Council have removed the need for ministerial concurrence in the nominations of independent members of the development assessment panel. In the interest of the independence of local government, this is an important provision. I am also pleased that the minister has respected the position of small rural councils with few applications that would need to be referred to the development assessment panel and has agreed to create the opportunity to such councils to seek an exemption from the requirement to appoint a development assessment panel. The right of the minister to review this exemption, if the number of applications to be considered increases, is appropriate. I am also pleased with the amendments supported by the Legislative Council requiring each council to establish a policy relating to the basis upon which it will make various delegations required by section 34(23) of the bill.

As I have previously outlined, clearly, the delegation of assessment responsibility in the majority of applications to staff is critical to ensuring that applications are considered in a timely manner. Another positive aspect of the debate in the Legislative Council is the response by the minister to the issue of liability to local government for the actions of development assessment panel members. I am advised that an amendment to section 56A(25) will be considered today for the inclusion of the words that a council is not responsible for any liability arising from anything done by a member of a panel not within the ambit of subsection (10). Correspondence received this morning from the Local Government Association on the bill refers to several areas, and with your indulgence I will provide brief details.

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

Mr GRIFFITHS: The Local Government Association has stated that councils should, first, retain the right to not delegate a development assessment decision to a panel or staff member, making the decision in its own right as a development authority; and, secondly, determine the size and membership of development assessment panels, which may include independent persons. Clearly, however, these positions have not been supported during the Legislative Council debate and, given the numbers in the House of Assembly, will not get very far if moved as an amendment. The Local Government Association has also requested that a further amendment be considered, that of a sunset clause, which would:

> . . . give the parliament an opportunity to revisit this issue with appropriate evidence in say 2 or 3 years time, regarding issues such as:
>
> 1. Costs to the community (fees for members,legal costs etc.);
> 2. Increased/decreased number of decisions being referred to the ERD court;
> 3. Availability of independent members; and
> 4. any relevant factors.

I can confirm that the opinion of seeking a sunset clause was raised in the Liberal Party room by the member for Kavel, as shadow minister for state and local government relations, and did not receive majority support. In relation to the need to appoint independent experts to the development assessment panel, the Local Government Association also makes the rather interesting comment that the Development Assessment Commission, which is comprised of experts, has its decisions considered by the Environment, Resources and Development Court and, at times, is overturned. I support the second reading of the bill.

Mr PICCOLO (Light): I rise in support of this bill, and I do so as a former presiding member of the Gawler development assessment panel, so I can speak with some authority on this bill. I support this bill because it does one thing very clearly: it separates the policy making which councils have a role in from the assessment of development. Unfortunately, not all councils appear to understand that distinction, and it is an important distinction. When they talk about having the community involved in assessment, they are actually saying that they want the right to change the rules halfway through the process. This bill makes very clear that there is a process of establishing policy for setting out development controls in our community, and it is a separate process to actually assess individual developments against a set of criteria established

in the planning amendment reports or development plan for a council area.

Those councils which have fought this reform brought forward by this government are the ones which clearly do not invest the time up front and the resources to establish clear development policies for their council areas. As a result, they get bogged down and try to circumvent what are, clearly, inadequate policies through the development process, and it can be seen quite clearly, with the number of councils which invariably end up in the ERD Court and get their decisions overturned. Importantly, it is only a small number of councils. A lot of the councils can actually get it right, but there are a number of councils—and we all know who they are in local government—which invariably spend most of their time in the ERD Court getting their decisions overturned because they have not applied the policies. They have tried, through a back door method, to change the rules and, quite rightly, either residents or developers take them on, and take them to the ERD Court.

This bill will clarify for both the residents and also the developer what the rules are, and it will ensure that the rules are clear through the whole process and do not change half way through that process. This bill will ensure that the residents and developers know clearly where they stand, because it puts the onus quite clearly on councils to invest up front in time and resources to develop policies, and that is where the hard work is. The community and the residents are protected when their councils enter into a formal process with their communities to establish policies in their areas. There is no shortcut. It is hard work and, unfortunately, a lot of councils are not prepared to do it. The only criticism that I would make—and I think it has been made by another speaker—is that, in councils trying to amend their development plans, there is often a bottleneck in Planning SA, which has the responsibility to vet the plans, and I understand that the minister is looking to improve that. With those few comments, I strongly support the bill and ask other members to do so as well.

Mr PENGILLY (Finniss): I would like to spend a little bit of time talking about this issue. Along with my colleague on the other side of the house and also the member for Goyder, we have probably spent as much time as anybody in the chamber on development assessment panels and on planning adjudication. There is nothing quite so controversial in local government as planning; there never has been anything more controversial, and there probably never will be. Everybody wants to be on it and, as the former mayor on the other side said, there is a great deal of difficulty with councillors differentiating between their roles under the Local Government Act and under the Development Act. This is one of the main problems that we have had. Indeed, at the council which I came from, we were able to put a panel in place with independent members on it. That caused quite a bit of angst, but we had to bulldoze these things through sometimes, and it actually worked quite well.

However, at the conclusion of this bill when in due course it goes through with the various amendments, the minister and the government must put in place with the Local Government Association a very strong education process to educate elected members on that differentiation between the Local Government Act and the Development Act because, quite clearly, it is failing. I can remember when I first became an elected member of council some 17 years ago there was a development on the south coast of Kangaroo Island by a gentleman called Mr Zappacosta that created an uproar on the eastern end of the island between the developers and the anti-developers. It is quite bizarre that here I am some 17 years later and another one is taking place on the south coast of Kangaroo Island with Southern Ocean Lodge, which, very fortunately, the minister has taken under his wing.

I have to say, though, that the members in council and those members who end up on the development assessment panels do act in the best interests of the community. They always put community interests first, and they do not have any problem with that. Unfortunately, from time to time, they are lobbied and, some people being different, the lobbyists get their way and it ends up in confusion. However, when it is all boiled down to commonsense, it is also a fact that the delegated authority works extremely successfully and has done for quite a considerable period of time. By far it is the case that few decisions are made by development assessment panels; indeed, most are handled at officer level. If the policy and the planning amendment report are right, they can proceed. It is only occasionally that they get bogged down. When membership of panels is comprised of all councillors, which is not so useful, that is when the problems arise, when they want to ride roughshod over the plan they have had the opportunity to put in place.

However, having said that, I point out that bringing a planning amendment report into being is in itself a laborious, long-winded and long-suffering process. It takes far too long for this to happen, which creates a lot of the problems panels and councils have in adjudicating, because just to change the policy can take seven or eight years. I recognise that the government would like to expedite that, but one of the main sticking points in expediting the fast tracking of planning amendment reports is the fact that the bureaucrats seem to hold them up with regular abandon.

The adjudication of that plan, once it has been put in place, is important. The other thing is that you are never ever going to please developers. I know that developers and the investors have gone to lengths to try to get the system changed and to put in place what they believe to be a more amenable way of planning being handled. However, I bet London to a brick that, if these things go through, within 12 or 18 months the developers would be squealing like stuck pigs to the government of the day that it is not right and that it is not working and everything is being held up. That is one of the unfortunate ways in which our system works and an unfortunate fact of life, because you are not going to please the anti-developers and you are not going to please the developers, and the poor old councillors, or whoever else is on the development panel, cannot win whatever happens. So, it is an unfortunate situation.

Planning will continue to be extremely contentious long after most of us are out of this place. I believe the minister in another place has seen enough commonsense to fall into place with some of the amendments that have been put up. I am not sure that enough of those amendments that have been put forward have been adopted. Indeed, the Liberal Party party room spoke at length and had copious discussions on what needed to be done with this bill. I am very much a commonsense and practical person. Having worked on the land for far too long, I believe you do things, you make a decision and you get on with it. I think that some of the major hiccups we have in planning are brought about by some of the revelations, stipulations and the hold-ups in the bureaucracy.

I can guarantee that, if you put in an application that includes the slightest piece of native vegetation on it, the

Native Vegetation Authority will recommend refusal. I do not think I have ever seen an application come back that recommends anything other than refusal. You have this ridiculous situation where you have the Native Vegetation Authority fighting the CFS, which wants to put bushfire protection measures in place and the Native Vegetation Authority disallowing it. To me that is a totally ludicrous and ridiculous situation. I urge the government to do something about that issue and to take the necessary steps to amend the legislation to bring that about, so that the development assessment panels can get on with the job they are meant to do. I would say, in fairness to SA Water, that they are most amenable on that scene.

Mr Williams interjecting:

Mr PENGILLY: They do; a $200 million a year dividend to the government, I was told this morning.

Mr Williams interjecting:

Mr PENGILLY: No; the latest figure this morning was 200. As mentioned by the member for Goyder, the LGA would like to see a sunset clause put in place, and I do have some sympathy with that. I believe that local government generally is not held in enough respect in the Parliament of South Australia, and that is not a reflection on members in this place. However, I do not believe that there is an understanding by many people in this place of what local government does. Local governments tend to be the poor relations, and they tend to be put to one side, and they tend to have what is thrust upon them and deliver the goods, without adequate resources. Obviously, acting on behalf of their councils, they work extremely hard to lobby members in this place and the other place to bring about some commonsense solutions to this development bill that is in front of us.

Having said all that, I hope that some of the amendments that have been put forward and that have been discussed in this and the other place will be given a little more airplay. I know that there are other members on both sides in this place who want to take part in the discussion. I wind up my remarks by saying that I support the second reading, with a reservation.

Mr KENYON (Newland): I rise in support of the bill. This bill has been hived off the sustainable development bill in the previous parliament, and there is a little story in that in itself. In the last parliament, there were so many amendments moved by the Liberal Party that they ended up splitting the bill and putting what was acceptable to the Liberal Party in one bill and all the stuff that was supposedly unacceptable in a separate bill, part of which is what we are debating now. At the time, I thought that it was a mistake of the Liberal Party to oppose everything they did, because we have a problem in this state with the speed of approvals and development approvals. The sustainable development bill was designed to speed up that process.

One of the problems that the Liberal Party had in the last election was a dearth of contributions to their campaign from business, and I think that one of the reasons for that is because they strayed so far from the interests of business and developers and from moving this state forward in a timely way that the businesses did not have any confidence in the Liberal Party. I hope that they are able to see their way clear for our good and the good of the state—and, also, for their own good—to support us on this bill and not to take part in some of the silly Local Government Association amendments that are being proposed.

One of them tries to get rid of the minister's power of concurrence; essentially, it is a power of veto over the boards. It would not surprise many members in this house to hear the suggestion that there will be councils in this state that will try to get around laws that are designed to improve and make development applications more timely. I think the minister's role of concurrence is important for that—to try to stop them circumventing the law. While I am sure they will still try to find a way, it is important that there is some sort of check and balance.

Mr Goldsworthy: That's a pretty big statement, Tom.

Mr KENYON: What, check and balance?

Mr Goldsworthy: No; circumventing the law.

Mr KENYON: Having the specialist members of the development assessment panels is very important, because I remember a striking example from when I was growing up when I read in *The Courier* about a Stirling councillor (it was then Stirling council). At the Stirling council, all applications came to the council itself, and that still happens in a number of councils around Adelaide. This councillor knew—and he said it to the council, and it was recorded in *The Courier*—that a two-storey building of flats was against the development plan, but he knew the people, and they were 'good' people, so he was voting for it. That is the sort of silliness that this bill tries to avoid, hoping to bring about a more impartial or scientific approach to development applications and, hopefully, a more speedy one that will allow development to occur in this state more quickly.

Mr WILLIAMS (MacKillop): The member for Finniss, a few moments ago, made the statement that he thought that—and I will paraphrase his words—this place undervalued the local government sector. He said something along those lines. I totally concur.

Mr Pengilly: Lack of respect.

Mr WILLIAMS: Lack of respect, he tells me. I totally concur with those sentiments, having cut my teeth in local government many years ago—

Mr Griffiths: All good people do.

Mr WILLIAMS: All good people. I have always, ever since I have been in this place, had similar feelings. In fact, I was in local government at the time and I think it was in 1986 when we almost had the opportunity of local government as a tier of government being recognised in our federal constitution and that ill-fated attempt by the then Labor government to have constitutional change made in Australia. The reality is that if the then federal Labor government had kept out of the process and allowed the organisations that had been set up to recommend constitutional change and develop the constitutional questions that went before the people of Australia, I believe that we would have got local government recognised in our Australian constitution. Of course, that is history and, unfortunately, we now—

Mr Piccolo: The Liberal Party opposed it.

Mr WILLIAMS: No; you do not understand what happened there. If you want me to give you the full story, I will, but it will take more time than I was intending to spend on this question. The reality is that the then federal Labor government mucked around with the questions put to the people and developed at least two questions, if not three questions, which the Liberal Party strongly opposed. The history of referenda in Australia is that it is almost impossible to get the people to vote 'yes' to one question and 'no' to another. Because of that, the Liberal Party asked the Australian people to say, 'No. No. No. No.' to the four

questions. That is what happened to local government. It was not the fault of the federal Liberal opposition of the day: the problem was with the federal Labor government and the way the questions were formed. That is a fact of history.

To return to the point of the question before the house, I agree with the member for Finniss that local government does not receive the recognition that it should from this place, and I think that every member of this place would shout all the way up and down North Terrace and anywhere else they could, if the state government was treated by our federal counterparts the way that we treat local government. I am absolutely convinced of that. I think that we treat local government as a very poor cousin, and that is unfortunate. Those people who serve in the local government sector are, by and large, volunteers. We are fully paid professional decision-makers—and I do not want to detract from our role—but those people volunteer, to a large degree, their time for their local communities. I do not think they get the respect that they deserve for the work and effort they put in on behalf of their communities.

The reality is that local government is about 'local'. The 'local' is very important in local government, and I have always believed that every time a decision is made, whatever it is about, the closer it is made to the people that it affects, the better the decision will be. The further that it is made from the people it affects, the chances are that poor decision-making processes will occur. I think planning should be about being local, and the closer you get to the people it affects the better. Also, I do not believe that we should have a template planning system that is replicated right across the state; I think the state would be a much better place if we had variations across it, if regions went about what they wanted in their area and sought a different type of planned environment than you would get in another area. I think that sort of variation would be good for the state.

Unfortunately, I believe that this bill has its genesis in the idea that we should rush planning decisions and not necessarily take into account the wants, needs, desires and aspirations of local people, that we should have someone who would generally be a state government bureaucrat having the last say. If I understand it correctly, the government—with the forerunner to this bill, the Development (Sustainable Development) Amendment Bill, and the Development (Panels) Amendment Bill now before us—has been arguing that councils set the plan for the region and they then adjudicate on the application which is assessed against that development plan. The reality is that councils do not set the plan for their area, and that is the problem with the system. Planning SA has the last say. It is the minister who has the last say on the sign-off on development plans for the council's area.

Mr Hanna: The councils come up with it.

Mr WILLIAMS: The member for Mitchell says that the councils come up with it, but the minister has the last say and in this instance the minister has said, 'The councils develop the plan and then the councils adjudicate on it.' I argue that it is the minister who has the last say on the plan and it is the minister who, in the original draft of this bill, wanted to be the person to say who could adjudicate on a development application. I think that what the minister has been saying is the problem with the system is exactly what he is trying to institute; the only difference is that he is trying to put all the power in his area so that he can have it rather than the council. In any case, I believe that decision making should be closer to the people it affects and, therefore, if you have both those powers in the same place that should be with the council, not the minister.

Notwithstanding that, I think we have to sort out the problem with the development of the plan in the first instance, because that is where the problem occurs. A few minutes ago the member for Newland used the term 'the silly councils'. I think that was a bit unfortunate because I do not think those councillors, who volunteer on behalf of the communities out in his electorate of Newland, would enjoy being called silly councillors. By and large they are pretty decent people doing a damn good job—

Mr Kenyon interjecting:

Mr WILLIAMS: Unfortunately some of the people in here are silly too, Tom. The point I wanted to make about what the member for Newland said is that the process is slow. If the member for Newland fully understood the process, he would realise that the biggest hold-up in development assessments occurs when a planning amendment review is done, and the biggest hold-up is by Planning SA—that is, in the minister's office. It is caused by the minister and state government agencies. In my experience the biggest hold-up in developing a plan amendment review is not at the local council level: it is in the state government area. It takes years to get a plan amendment review through the process, so if we want to fix the system I suggest that is where we should be looking first. I am not suggesting that councils make perfect decisions all the time, but by and large I think that they do a pretty fair job.

One of the things I believe we should be addressing in this particular matter is making the appeal process through the courts a cost jurisdiction. If there is a silly councillor who is opposing a development application contrary to the council's own plan—which has happened and which will continue to happen—the reality is that the poor old developer trots off to the court at great expense, the court overturns the council's decision and finds in favour of the developer, but it cannot award costs against the council. So the council, if it were a silly council, would continue to make silly decisions.

I think the first thing we should do in this area is make that a cost jurisdiction. That would pull a lot of councils into line and they would start to realise—

Mr Piccolo interjecting:

Mr WILLIAMS: The ratepayers would love it, because they would start demanding that the councils actually look at their own plan and adjudicate on development applications according to that plan. That is one of the problems we have. I do not think that appointing people to development assessment panels who are not councillors is necessarily going to solve that problem; however, I am delighted that the minister in another place has accepted the amendments that have been put forward.

Mr Kenyon: I am advised that they are cost jurisdictions.

The DEPUTY SPEAKER: Order!

Mr WILLIAMS: My information is that they are not; they have not been and they still are not. That is my advice. If they are, I am delighted that that change has been made recently, because it has not been the case in the past. I am delighted if that is the current situation.

I am pleased to hear that someone has done something sensible: it does not happen all that often. My advice is that it is not a cost jurisdiction, so the court cannot award costs. That is what I have always thought and it is what I am advised. The member for Newland may be right, but that is an area that I think should be looked at if it is not, because it would solve a lot of the problems that have been identified.

I am not suggesting that there are not problems, but they are in some areas that this bill does not necessarily address.

I am delighted that the minister in another place has acceded to a number of amendments that the opposition has put. The minister has not insisted on his having concurrence in the appointees to the development assessment panels. That is important, because I think it would be wrong for the minister to be the last person to sign off on the plan for the area and also the last person to sign off on who was on the assessment panels, because that shifts all the power to the minister and that would be wrong. I also am delighted to learn that the minister in another place has accepted an amendment that would allow councils in regional areas, who have very few development applications in any year, to apply to the minister for exemptions.

My inquiries indicate that the minister has not indicated at what sort of level he would set that bar. I hope it is not too high. I would be very disappointed if the minister set it at a point where small rural councils that have a minimum number of development applications are forced into the heavy cost of complying with this legislation. It is a significant cost, particularly in isolated areas, for small councils to bring in so-called experts, so I am delighted that that exemption has been agreed to by the minister in another place. I would just like to be assured that that bar will not be set too high and that a significant number of those isolated regional councils will be able to avail themselves of that exemption.

I understand that our spokesman on this in this house is also very happy with the amendments as they are and we will be supporting the bill in its current form.

Ms FOX (Bright): I am pleased to be able to support this bill. Before I begin, I do acknowledge that my background is not in local government, and I know that there are members on both sides of this house who have been deeply involved in local government over the years. However, what I do know about is people and the cost, both emotional and financial, that they pay because of certain planning decisions. As a member representing an electorate that encompasses three council areas—the cities of Onkaparinga, Holdfast Bay and Marion—I receive an extraordinary amount of complaints, particularly about one council, relating to development decisions. Council development assessment panels must have a mixture of elected members or council officers and specialist members.

We have to improve our state's planning and development system so that local residents have some confidence in development decisions. I do not want to knock local government, I acknowledge the valuable work that local government does, but the level of sheer frustration in the community about this process cannot be underestimated. I have seen constituents in my office who have literally been in tears over decisions that they feel have been made in a Byzantine and irrational manner. This bill will ensure that people with vested interests will not have any particular influence and that ratepayers can have increased confidence in the process. I commend this bill to the house.

Mr HANNA (Mitchell): Last year I studied the proposals for a sustainable development bill that the government at that time brought to parliament. The government this year has separated the proposals contained in that legislation in separate bills and I am dealing now with the Development (Panels) Amendment Bill 2006. I will make some brief remarks about four aspects: the size of development assessment panels, their composition, the selection of the personnel and the transparency of their proceedings. At the outset, I should say that I tend to agree with the view put forward by the Hon. Sandra Kanck in another place. She made reference to the Marion council and the way that development assessment panel proceedings are conducted there. I think that the system works well.

That is not to say that I agree with every one of its decisions, but that is not the point. We are talking about trying to get the best structure within which reasonable and fair decisions can be made. In terms of the size of development assessment panels, I think that seven probably is reasonable, although I am glad to see the flexibility for a panel of five in country areas. That is reasonable, given some of the limitations on available suitable membership in some country regions. That flexibility is a good thing. In terms of the composition, my point is that, as a matter of democratic governance, it would be beneficial to have a majority of elected members on development assessment panels so that there would be a mix of so-called independent members and elected members.

I think it unfortunate that the terminology we are using is to equate the so-called expert or qualified members with independent members, because there is absolutely no guarantee that they are going to be any more or less impartial than elected member of council. Indeed, the elected members on the Marion and Onkaparinga council development assessment panels I know sincerely endeavour to be impartial, to the point where they will not comment to their own constituents about matters that are coming up before the development assessment panel so as not to develop a bias, or even give the perception of bias. That is certainly model behaviour when it comes to members of development assessment panels.

Of course, with qualified members on panels, one is drawing from an equally limited set of people—those with, perhaps, planning qualifications or traffic or design qualifications, something that makes them appropriate for the task. However, those people go in and out of planning consultancy firms and council staff arrangements, they may be consultants, they may be in the council planning divisions as employees and they will often move between those roles, whether it be public sector or private sector. So, although there is a desirability for impartiality, those people will have just as many pulls and pushes in terms of how they should decide types of matters coming before a development assessment panel as will elected members. They may not have the constituents phoning them up, but there are subtle pressures to conform to standards in industry or to suit certain commercial interests in the region in which they operate. I am only speaking in general terms, of course.

I am disappointed that the government has determined that it will have a majority of those who are not elected members on the development assessment panels. However, at least we are getting a hybrid model, whereby there is a mix of elected members and those who are there by virtue of their qualifications and experience.

In terms of chairing the panels, I believe that the panel should choose who will chair it. I do not think anything magically beneficial is to be gained by appointing an independent or a qualified member of the development assessment panel to undertake the role of chairing. There may well be a situation where there are four extremely well qualified and experienced planning professionals on a development assessment panel who do not know how to chair

a meeting, and that is a task that will be found more often among elected members, who have experience (probably too much experience) of meetings and managing a number of people in that situation.

In terms of appointments, I am glad to see that the government has conceded the point to allow councils to appoint the qualified members of development assessment panels. I think it is much wiser to allow local knowledge to play a role rather than directing from above, as it were. In terms of transparency, I find it harder to imagine why development assessment panel proceedings should be held in secret than, for example, some decisions taken by councils. I know there is controversy about councils having closed meetings when they are dealing with commercially sensitive information or forward plans for development, and so on. However, when there is a specific development application and there are specific objections to it, it is harder for me to see why one would want to close the meeting to those who are neither objectors nor applicants. It may be inappropriate to divulge all the material (which may be of some commercial value) to all and sundry, but people should at least be allowed to observe a meeting so they can see the democratic planning process at work. I find it hard to see why a meeting would be closed.

I am thinking of the situation (and this is common) where there is a controversial development application. Council might notify only the minimum number of people required—it might be neighbours or people within 50 metres of the development site—yet it might be a development that affects a whole suburb, because of traffic implications or something like that. In those situations, I think it is only healthy and appropriate to allow all local residents who have an interest to come along and observe the development assessment panel proceedings. I am particularly reluctant to see the power for development assessment panels to close meetings. We will see how the panels operate after the passage of this legislation, I suppose.

I do not think the changes to the way in which development applications are processed is inherently bad. I support the legislation. However, as I have said, I would have done it differently. If I thought that there was a remote chance of having sufficient numbers in this house to do it a little differently and have a majority of elected members on development assessment panels, I would have moved appropriate amendments. However, the reality is that the government has determined to reject that approach, so I simply make those remarks for the record. No doubt, this will be revisited if there is continuing widespread dissatisfaction with the way in which development assessment panels operate.

Ms PORTOLESI (Hartley): I rise to commend this bill. I have a slightly different perspective. I was working for the minister for planning at the time as his chief of staff—

Mr Venning: It's your fault!

Ms PORTOLESI: —I cannot take any credit for this—when he decided to embark on what was to be a massive program for reform in the planning area. I look at him, thinking lovingly into the past (and I recall it with exhaustion and horror, because most of the time I did not understand what anyone was talking about), and I think of what motivated him and the government, in particular, in relation to these reforms.

It was a desire to make the planning process more transparent and accessible to people in the community (and, certainly, that is not the case at the moment); and, of course, much more expeditious. Areas in my electorate (Campbelltown, Hectorville and Tranmere) have many local council challenges. However, in the area of planning and development, we are dealing with an area which once had many houses on big blocks, but they were sold off many years ago. The blocks have been subdivided three ways and converted into the neo-Tuscan/Georgian kind of house in which I live, for instance, which involves its own challenges.

In fact, yesterday I was speaking on radio when this issue was raised. Sustainable local communities need to be able to balance the need for open space, as well as a desire to accommodate changing demographics. I feel that that task can be enhanced only with the addition of experts to the development and planning process. I wholeheartedly support this move. I see it as a value-adding development. I do not know why councils are worried. Councils should not be worried if they have nothing to fear. I commend the bill, and I commend the extraordinary work of the former minister (Hon. Jay Weatherill) and the minister in another place. Thank you.

Mrs PENFOLD (Flinders): I have grave concerns about this bill and how it will affect the regional councils. Eight local councils are located in my electorate, and it is concerning to see increased costs imposed on them and their autonomy threatened. The remote Elliston council area on Eyre Peninsula is one of the largest in the state; and, when I last checked, it had only 807 full-paying ratepayers. Certainly, in my view, this bill will not allow them to contain their costs. For the last four years the structure of the development assessment panels (DAPs) has been dealt with by councils in a variety of ways. Many opted to have all their council members sit on the development assessment panel, because very few people have the necessary experience available and this was one way to gain that experience, while others invited public and staff members onto their panels. Development assessment panels were introduced to allow councils to focus on planning policy functions, the development of planning assessment reports and to delegate the approval of planning applications to development assessment panels.

Currently, according to local government figures, 99 per cent of all development applications are approved, with 95 per cent determined by councils under delegated authority. Of the small number of decisions by panels, most are made in line with recommendations of planners. There is room for appeal by applicants of some referrals, so there is already an independent, well-qualified body that deals with disputed development applications. Where is the evidence that these amendments will resolve the concerns that initiated this bill? If a handful of councils are causing delays by poor service, application and interpretation of development control, the government should fix those problems and not impose greater controls on councils that are performing satisfactorily.

Why introduce the need for all council DAPs to have a designated public officer to ensure that any complaints of the panel are properly investigated? This is another cost and bureaucratic responsibility which could be handled elsewhere. According to the report of the Financial Sustainability Review Board only about one-third of South Australian councils are in a moderately comfortable or better financial position. The report also reported that compliance costs imposed on councils by state regulatory authorities were substantial and growing.

This is another prime example of the substantial and growing compliance costs imposed on councils by state regulatory authorities. Why does the state government intend imposing additional costs? I understood the state and local government relations agreement to mean that state governments would not force additional costs onto councils. The requirement for four members of a seven-member council development assessment panel to have a reasonable knowledge of the operation and requirements of the act and appropriate qualifications or experience in a field that is relevant to the activities of the panel will create a number of problems for councils, especially those small rural councils such as mine. The requirement that, as far as practicable, the panel consist of equal numbers of men and women is, in my view, totally impracticable and farcical. Already there is a requirement for council to ensure that at least one member of the panel is a woman and at least one member is a man. Why place additional pressure that could result in the possibility of a panel not being filled? The best available person for the job would seem to be a better criterion.

Country councils will have to find 50 independent, appropriately qualified presiding members and 100 to 200 appropriately qualified members. People with planning and development knowledge and qualifications are already in short supply. Where will small rural councils find all these people? In many instances, they may have to come from outside the council area—and remember that half must be female and half must be male. That then leads to paying for these appropriately qualified people. I very seriously doubt that these appropriately qualified people will offer their time for free or for a very low fee, unlike the council representatives who offer their time for very little remuneration. In addition to sitting fees, there will be travel and possibly accommodation costs depending on travel times and the length of panel sitting and inspection times.

Another motivation behind the amendment appears to be the so-called need for independent council DAP members. How will the so-called independent, appropriately qualified panel members from small country communities refuse an application one day and then visit the same developer the next day, seeking their business? There also appears to be a requirement to have a greater number of independent members than council representatives on the DAP panel. It is interesting that there is an assumption that council representatives will vote as one. Rural local councils are not party political, and if there is a contentious development application I think it would be extremely unlikely that they would vote as one.

Over one-third of councils in South Australia are rural councils with populations of less than 5 000. A small rural council on Eyre Peninsula, consisting of a population of fewer than 2 000 people, has estimated that the potential cost to it could be between $10 000 and $15 000. A better approach may have been to require all members of council DAPs to undertake ongoing education and training programs, as the LGA is doing. This would have provided more impetus to adopt transitional provisions and would have ensured that panel members had a better understanding and knowledge of the act and the responsibilities of the panel.

In the approval system, there will always be people who test the boundaries of the PAR, and there will be people who are disappointed when their application is not approved. Even with the establishment of panels comprised in part, or as a whole, of non-elected members, there will still be a propensity for political considerations to enter into the decision-making process. It would be naive to think otherwise. No evidence has been presented of particular problems in the system; therefore, will the proposed amendments address the problems? Zoning or planning rules are subject to interpretation, and we will end up with decisions that meet state requirements but will they meet the community's needs?

I am concerned that the variations in the Development (Panels) Amendment Bill will be difficult for country councils to comply with and will add another burden of cost. The imposition of unnecessary burdens of cost on small rural councils, with negligible benefits to development control in the district, cannot be justified. Local elected councillors are democratically elected and trusted by their communities to make decisions on their behalf, and their community's interests are always in mind.

Mr O'BRIEN (Napier): I would like to provide the historic context of the Development (Panels) Assessment Bill before proceeding to my reasons for supporting it. In June 2001 the 1993 Development Act was amended to require all councils to establish development assessment panels to determine development applications for provisional development plan consent. The panels assess development applications according to council development plans, which are produced by councils using state government planning guidelines. While all councils establish development assessment panels, the 2001 amendments did not specify the composition of the panels. Different councils have approached the issue in different manners. The panels across the state range from five to 16 and include varying numbers of elected members and specialist members.

Until now, some council development assessment panels—and I do not stress all—have been largely filled with elected members. Some panels have also become unreasonably large. When development assessment panels are filled with elected members, the situation arises where the people who make the regulations also judge whether development plans comply with the regulations. The result, as Bill Nicholas observed in *The Independent Weekly*, has been:

> The planning process in councils has become more political than rational.

This was an observation he made in that publication over the weekend.

Elected council members on development assessment panels sometimes make judgments based on perceived political outcomes. The same elected members have overseen the regulations but then may wish to change them subjectively if they find a particular constituent, or group of constituents, disapproves of a particular development application. The larger the development panel the more likelihood there is of objections to the development application being raised by panel members. The inconsistent application by councils of the council development regulations has seen many development applications ending up in the Environment, Resources and Development Court. I would like to say a little more about this later, but it is clearly an inefficient way to conduct planning approvals.

The bill currently before the house is an attempt to cut through this inefficiency. It originated in the Economic Development Board's 'Framework for economic development in South Australia' report that was released in May 2003. The board's brief was to outline the key actions that business, the community and government must take to revitalise the South Australian economy and place the state

on a higher growth path. The EDB talked to nearly 10 000 South Australians in the course of developing this framework. The board identified six major areas that were holding South Australia back in terms of becoming a more productive and prosperous region.

Amongst the areas requiring attention are government efficiency, effectiveness and leadership. The board found:

> In order to support the state's economic development, the process for planning and development must be clear and implementation effective and efficient.

However, the board considered that the then implementation of the system was flawed. The report states:

> It does not deliver the clarity, certainty and consistency that the state needs.

In an attempt to overcome this lack of clarity and consistency, the Minister for Urban Develoement and Planning, the Hon. Paul Holloway, introduced the Sustainable Development Bill to the other house in April 2005. This ambitious and wide-ranging bill was bogged down with proposed amendments. Consequently, the bill has been broken down into more manageable proportions and, mercifully, the opposition has indicated its support for the current bill.

Among the inefficiencies found by the Economic Development Board, particular attention was paid to local government authorities. The board found that:

> Many councillors micro-manage planning issues at the expense of setting clear policy direction which has the added impact of creating disillusioned and unmotivated people.

Further, the board found that when making planning decisions, local government authorities:

> . . . resource priorities that reflect immediate local concerns rather than economic and efficiency issues.

The board consequently recommended:

> Implementation of the planning system at the local authority level be improved, with particular consideration given to de-politicising the structure and operation of the development assessment approval processes. All councils should introduce development assessment panels comprising an independent chair, a majority of professional people and relevant technical experts, and a minimum number of local councillors.

The amendment to the Development Act currently before the house is the government's attempt to meet recommendations 14 and 15 of the Economic Development Board's *A Framework for Economic Development in South Australia* report, and the State Strategic Plan target 1.19, which states that South Australia should:

> Lead Australian governments in timely and transparent government decision-making within five years.

The intention of this amendment to the Development Act is to ensure that people seeking developmental approvals can proceed with plans safe in the knowledge that if they stick within the development guidelines, their applications will be approved, thus providing both private property owners and developers with certainty.

It is a very basic principle of any sound political system that those making regulations and legislation should not sit in judgment on disputes that arise from those regulations and legislation. This is a basic division of power. The judiciary is separate to the legislature to ensure that legislation is applied in a consistent and impartial manner and not subject to ad hoc changes. A separation of power guarantees that legislation and regulations cannot be changed to meet some personal or political imperative on a case by case basis.

This amendment achieves this by specifying the composition of the development assessment panels. This bill requires each council to have a development assessment panel of seven people comprised of one specialist presiding member, and up to three elected council members or council staff, and at least three other specialist members. There is some provision for flexibility on the number of people on the panel. With the concurrence of the minister, the panels can be as small as five or as large as nine, but it is envisaged that the majority will be seven. The flexibility in the numbers is to allow larger panels for particularly difficult or larger applications. The smaller boards could be used by rural councils which have difficulty finding the required number of specialists. The specialist members are to be chosen by council and could include planners, architects or anyone with business or general community involvement.

Returning to the argument that specialist panel members guarantee a separation of power between legislation and implementation in planning, the logical conclusion would seem to be that all members of the assessment panel should be specialist members. In an ideal world, the panels would be made up entirely of specialists. There are, however, some good practical reasons as to why the government has accepted the compromise of a hybrid model of specialists and elected council members. Elected councillors provide a community view to be represented on the panels. In many instances, especially on the level of small scale owner/occupier developments, planning is an issue that is best dealt with at a local level because these are often developments that will only affect people in a very specific area. Different areas of Adelaide have different needs and elected local councillors are democratically accountable. Elected councillors provide input on the basis of local knowledge and local factors.

There were also financial considerations for adopting the hybrid approach. The specialist members of the panel need to be remunerated. This cost will be absorbed by councils, and it was felt that the cost would be too onerous if the panels were entirely comprised of specialists, especially for small rural councils. It is the government's view that some of the reported fees charged by specialists to sit on panels that are being touted by lobby groups are greatly exaggerated and, further, in many councils having specialists on the panels will ultimately reduce the costs by seeing less applications ending up in court by way of dispute. We are, nonetheless, sensitive to the requirements of small rural councils which may have very few development applications to consider. Purely theoretical models often need to be modified according to practical considerations. Indeed, the Westminster model is based on such compromises where the legislative and executive branches of government are both drawn from the parliament hence blurring the separation between the executive and legislative branches of government. The government feels that the compromise on the nature of the panels is a worthwhile one.

The LGA is opposed to the bill. The bill represents a watering down of the power of elected councillors. As the peak lobby group for elected councillors across the state, the LGA has an institutional and definitional obligation to oppose any dilution of the power of elected council members regardless of how sensible it may be. Aside from the LGA and some individual councils, there seems to be broad support across the community and across the parliament for this bill. There is broad acknowledgment that changing the composition of the development assessment panels will lead to greater efficiency and consistency in planning approvals across the state. I therefore support the bill.

Mr GOLDSWORTHY (Kavel): I am pleased to speak to this piece of legislation. Obviously, I have a fairly keen interest in this bill, being the shadow minister for state/local government relations. As the house might appreciate, I have had a fair number of telephone calls, letters and other forms of communication, such as emails, faxes and the like, from a number of people within the local government sector putting their opinion forward. I want to say from the outset that I am a strong supporter of the three tiers of government we have in Australia. I believe the local government sector plays a crucial role. I think we would all be quite aware that presiding over the decisions that are made is not easy at our level of government, and I would imagine federal members feel the same way—and it is no different for the elected representatives who serve the community at the local government tier of government. They certainly understand the responsibility of the decisions they make which are borne by the community.

As I have said, I have been contacted by a number of people—a number of mayors and senior staff within councils—putting forward their position. I spoke at a meeting last week, and one of the mayors attended, not in that role but as an interested person. It seems to me that there is a bit of a misconception out there amongst local government people—and I want to put the facts straight on this. The Liberal opposition does not support the bill that the government introduced into the upper house. There seems to be a misconception out there in local government land that the Liberal opposition supports the government bill.

The Hon. J.W. Weatherill: Well you do.

Mr GOLDSWORTHY: That's not the case at all.

The Hon. J.W. Weatherill: Which way are you going to vote?

Mr GOLDSWORTHY: Hang on a minute. The minister is misrepresenting the situation. In the past, two significant amendments were moved in the upper house that I understand the government is agreeing to, and there is a further amendment to be moved in this place that is not the original position of the government and the intent of the legislation that was first introduced. It is all very well for the minister to sit over there with a cheeky grin on his face. He knows well and truly that the Liberal opposition has fixed up a pretty scrappy piece of legislation. One of the amendments that was successfully moved by the Hon. David Ridgway in the other place was to remove the requirement that the minister have total authority to decide who is appointed to those panels. That is not necessarily the formal words of the amendment, but that is what it means. Previously, the government intended to have the total power and authority to say who went on these panels and who didn't.

We have seen these sorts of things happen in other situations with the government, and you could almost make a comparison with this sort of socialist model, that the authority that is devolved out into the community is abolished and it is all drawn back into a sort of central location within the minister's office. We have seen that with the SAFECOM legislation that was debated long and hard in the parliament last year, and we saw it with the natural resource management legislation, where the involvement of volunteers was diminished. You could put an argument forward that the original bill looked to achieve that as well. However, as I have said, one amendment proposed by the Liberal opposition, which was passed in the upper house and which I understand the government is supporting in this place, provides that the original councils have the authority and power to appoint who sits on these panels. The second amendment that was again successfully moved by the Hon. David Ridgway provided that those councils with an area that lies wholly outside the metropolitan area can make application to the minister seeking an exemption from the requirement to establish an independent development assessment panel. They are pretty significant changes to the original legislation.

I want to set the facts straight on this: the Liberal opposition has really made the best of a bad situation. As I have said, there is this misconception out in the community that we were supporting the bill in its original form, and these amendments obviously make it blatantly clear that that is not the case. It is good to see that the government has also had the commonsense to agree to what the LGA and the councils were very concerned about, that is, who was going to carry the can in terms of the liability arising out of any actions taken as a consequence of decisions made by the panels. I understand that the amendment before us proposes council not to be responsible for any liability.

That is a step in the right direction, too, because it was clearly evident when the government first introduced this legislation last year, and reintroduced it after it lapsed because the parliament was prorogued for the election. The government was determined, in one way or another, to abolish the current system of the development assessment panels, giving the councils the option to have either independent people on the panels or the elected representatives. The government was determined that, by hook or by crook, it would change things. As I said, I think the Liberal opposition has made the best of a bad situation and fixed up what was quite a bad piece of legislation. We are not the bad guys in all this: we are the good guys, because we have corrected problems—

Mr Piccolo interjecting:

Mr GOLDSWORTHY: The member for Light wants to interject. I have not seen him in the course of the second reading debate actually get up on his feet and have a bit to say.

Mr Piccolo: Actually, I did.

Mr GOLDSWORTHY: You have, have you? Well, good. I will read the *Hansard* tomorrow with some interest.

Mr Piccolo interjecting:

Mr GOLDSWORTHY: I'm not withdrawing anything. I will read it in *Hansard* tomorrow.

An honourable member interjecting:

Mr GOLDSWORTHY: I am glad, because he is a past mayor. He understands—

Mr Piccolo interjecting:

Mr GOLDSWORTHY: I stand to be corrected, member for Light, if it makes you happy. The member for Light has made a contribution.

Members interjecting:

The SPEAKER: Order!

Mr GOLDSWORTHY: I congratulate him. I will read with interest what he had to say about it, coming directly as a mayor from the local government sector. I will read it with interest.

Ms Chapman: He caved in.

Mr GOLDSWORTHY: He caved in. The member for Bragg said he has caved in, and that is probably a pretty accurate description. They are all locked in. They do not actually have their own individual minds. They cannot have their individual opinion here in the chamber. They are all

locked in by caucus, and that is it. I wanted to present those facts.

Members interjecting:

The SPEAKER: Order! If members want to have a discussion about these things, take it out of the chamber. The member for Kavel has the call.

Mr GOLDSWORTHY: Thank you, Mr Speaker. Like all members in this place, I receive a number of contacts from constituents in relation to planning issues involving local councils. Nothing is perfect in this world. Some areas within government operate better than others but, usually, if I am able to make an appointment with the council—and depending on what the situation is—I meet with the council and the people concerned with how the decisions are made. Usually, when we go to the council and sit around the table to talk about it in a calm and sensible manner, those concerns are resolved and the process can take place.

However, I came across an interesting aspect in my earlier days as a local member, where the panel members who constituted the development assessment panel, particularly in the councils in my district, were made up of the elected representatives. When there was a development application before the panel, those who opposed the development and those who proposed the development were not allowed to contact the members of the development assessment panel. I found that rather interesting. I had a meeting with the mayor and the CEO, and other senior staff within the council, because I could not understand it. In our role in this place, we get lobbied up hill and down dale on practically every piece of legislation that is mildly contentious. We had a meeting, and it was explained to me that court action had been taken—and there was an opinion by a Supreme Court judge, from memory—where it was judged inappropriate for development assessment panel members to be approached individually by opponents or proponents of a development. Be that as it may, that is how those things operate.

Obviously, the state and federal political system operates on a different basis because we are members of political parties. Local government is supposed to be apolitical, and we form a party position on pieces of legislation. On the other hand, I guess the development assessment panel members can make their own decisions on whatever the proposal might be. That was an interesting issue that I came across only about six to 12 months into my first term, and it is quite an area of difference to compare the decision-making processes at that level with those of the state and federal governments.

As I said earlier, I am pleased that the government has seen the sense of supporting the Liberal Party's amendments. We have tried to broker a compromise in all this, and they have seen the error of their ways and are not set on taking their usual hard-headed approach to things and cracking a peanut with a sledgehammer. With those few words, I am happy to support the legislation in its current form.

Mr RAU (Enfield): I will try to be very brief on this. I would like to say—in deference to the member for Kavel, who is a veteran of this place to the same extent I am—that I believe someone once said that self praise is no recommendation. He spent a long time praising his own party—which is fair enough, and good on him—

An honourable member: He almost dislocated his own shoulder patting himself on the back!

Mr RAU: That's right. Some of us over here think that that aspect of the honourable member's contribution was not the best bit; the bit I really liked, and where the honourable member really hit the button, was where he talked about the secret squirrel stuff he uncovered that was going on in the councils. That is, where the elected members are sort of stuck in a room, sealed off from any contact with the outside world as if they are in some type of prison establishment, and the staff wheel in the information they are allowed to see, tell them what they are allowed to think, and say that they are not allowed to go out to, for example, have a look at the tree that someone wants to pull out of their backyard and that is the subject of the application. Even if that tree happens to be around the corner, they are supposed to go like this (and, for the benefit of *Hansard*, I am holding my hand up to one of my eyes) as they drive past; they are supposed to blinker themselves as they drive down the main street in case they see the tree, because that would artificially corrupt their opinion and they would then not be relying upon the chap the staff wheel in, who tells them that it is actually a tiny tree (even though you cannot see the house). They would, therefore, make their decision on that basis.

I agree with the honourable member and I think he makes a very good point. All this cloak and dagger business is rubbish. These people are elected by the community to be their eyes and ears in the council and, according to the Local Government Act, they have a very important role in the council—although a lot of the administrations of various councils do not like that and do the best they can to make sure that their role is to be a mushroom. This is a very good example of the mushroom club. In fact, I know of one council—a very special council, but I do not think it is the only one—which insists that the elected members virtually have to go out together in a bus. They all have to turn up and they are then sort of blindfolded, put in the bus, driven around the block three or four times so that they get confused, the lights are flicked on and off just to make sure that the blindfolds are working, and then they are driven to the spot. Someone tells them what they are looking at and what they are allowed to think about it, and then they are put back on the bus, taken around the block a few more times to get confused, clockwise and anticlockwise, and then back into the council to make their decision. This is the sort of stuff that is going on out there right now—

Mr Venning: Is this Charles Sturt?

Mr RAU: I did not mention the council, but I hope the honourable member for Schubert does say something about that particular council because I think he knows what I am talking about.

The other point is that it is obvious from what the honourable member for Kavel mentioned that the architecture, as it is presently established, is inadequate. It is not working; it is crazy. I applaud the minister for bringing something forward. It may or may not be that the contributions made in the other place change this thing for the better—although I suspect one in particular does not, and that is the idea that councils be able to appoint who these experts are. It is very nice to be able to get on the phone to your mate and say, 'Look, we have these four jobs going in our council; they are going to be on this planning thing. You guys are going to get to make all the decisions, you are going to outnumber the local people anyway, and you blokes will bamboozle them with all the information. So, why don't you four blokes come on my council and then you can appoint my four blokes on your council.' They pick up a few bob along the way and everyone is happy. I am not especially comfortable with that bit of it, but if members opposite think that that is a step in the right direction I guess that is a matter for them.

The point is that this question is about architecture, and there is a tension in all of this between consistency of decision making across the local government area and transparency, in the sense that the punter who wants to put up a shed or who wants to have his tree cut down can find out what is going on and feel as if he is actually being heard and given some sort of opportunity. The other aspect is local input into the plan. I accept that this is a hybrid, but it is a hybrid that is moving us in a better direction and I think we should applaud that. As far as I am concerned the best model would probably be where the local input was devoted intensely to the formulation of a very detailed development plan and where the local councillors—instead of having a couple of phone books slapped on their table five minutes before the meeting and told, 'There is the plan, what do you reckon?'—could, in a methodical way, be taken through detailed planning arrangements for each and every part of their council area.

The Development Plan itself is so comprehensive and so self-explanatory that you could almost have an application to the Magistrates Court, with an appeal to the ERD Court if the magistrate got it wrong or someone was unhappy with it, where all the magistrate had to have in front of him was the plan and the application. You would not need panels. If this legislation does what I think it will do, we will see the focus come on the real business of the elected members, which is setting the policy, and setting the policy in the case of development in some detail, because what has emerged by practice in the past is that the detail has been ad hoc tweaked all the way along.

The plan has been just a broad picture, a bit of this and a bit of that; houses here, no houses there; abattoir here, no abattoir there; then the detail is worked out on an ad hoc basis. You have only to drive down any number of streets in probably any council area to find anomalies in those streets where there has been an inconsistency of application of rules. I can think of places where one place is approved this week and it has to have a three-metre setback from the road so that there is no congestion for the main road going by, and another place is approved a couple of weeks later with no setback. That is a classic example, but there are millions of them. Those examples happen all the time. The obvious other one is plot ratios. How much open space has to be allocated in any particular area? What is a minimum plot size?

All these things are capable of resolution in a detailed plan but, unfortunately, what has to happen because of the nature of the plans and the historical development we have had here is that these things are tweaked on an ad hoc basis. I share the member for Kavel's concerns about this secret squirrel stuff. It is a lamentable thing and, hopefully, we are moving away from that now. The former minister and the present minister should be congratulated for moving in the right direction, and I look forward to seeing more transparency and more consistency emerge out of these changes.

Mr VENNING (Schubert): I was not going to speak on this but I will after hearing the debate tonight. I have some experience of this matter from both sides, as the member for Enfield did hint. I have been involved on both sides of this as a councillor and also as chairman of the ERD Committee, which was doing the PAR assessments. The whole aim of this legislation is to bring some uniformity and consistency in planning across South Australia; not just in the city, as we have heard from the member for Enfield, but also right across the country. As a member of local government for over 10 years and chair of the ERD Committee for over eight years, I know the complexity of the Planning Act and the frustrations of applicants confused by different councils interpreting the act differently.

This was particularly bad back in those years in the Adelaide Hills. I was assisting the Hon. Diana Laidlaw, then minister for planning, in trying to build some uniformity into the system; and how frustrating it was. I always said 'always give the ministry of planning to your enemy,' because it was always a very difficult area. It still is. I found it fascinating because, knowing nothing about planning at all when I came into the place, I found that, sitting on the ERD Committee in judgment and having the Planning SA people coming to the committee and looking at all the PARs that came, I learned a lot. I also learnt the frustrations that were there.

We tried to implement a regional development assessment board in the Hills with several councils participating, with joint council representation and an independent chair. We nearly got that up, but it did not quite happen. I think the idea was right. I had a personal experience, which the member for Enfield has just highlighted, and I need to state that here. I do not want to compromise myself or anyone else, but it does illustrate this problem very well. I applied to the Charles Sturt council. As I have always done in my parliamentary work here, I praise people but I also give brickbats, and I give a brickbat to Charles Sturt council.

I applied to the council for approval for a house extension and renovation. It was over eight months until the final approval was given, yet my daughter, doing a similar development to mine in another council, had no problem at all. I applied nine months before she did, yet her home extension was finished before mine started. I was very frustrated with the professional planners—or all but one of them, and he was very helpful. I think his name was Bill Stephanopolous, and he has left that council now. The council's chief planner was rude, abrupt and very unhelpful. And it was a woman. I asked to speak to the mayor, whom I happened to know for many years, and I was told that I could not talk to him, more of the blinkered vision that the member for Enfield just talked about.

I was not allowed to talk to the mayor on any matter at all relating to this because there was a conflict here. The attitude of all the Charles Sturt planners, except this one, was a why not and could not attitude. It was all to do with setbacks and not how to.

Mrs Redmond interjecting:

Mr VENNING: The member for Heysen is dead right. You only needed to walk around the corner in this council area and within view of our development there was a house with half the setback that we were asking for, and it was completed and brand new. I thought the attitude was shocking, an attitude that I have never struck in my local government experience: this 'How dare you question us, we are the planners, we are paid this money, how dare you question this?' I also saw the frustration in the councillors. There is always a white knight. This Bill eventually put up a compromise position that I accepted, and the final result was about right.

As the member for Enfield would know, I am very pleased with the final result, but why could we not come to that position six or seven months earlier? We could sit down in a reasonable situation, rather than being told rudely, 'These are the rules, this is the act.' I got quite upset about it and that is why I make this position public now. I thank that person very much, and also the councillors who tried to help.

However, you can see, Mr Speaker, the conflicts between the councils and their own appointed planning staff and their interpretation of their own council's PAR. That is what is difficult; that is the conflict. Consideration was given to having one planning assessment board for the whole state. We would get a very uniform ruling across the whole state, would we not, but how slow and expensive would that be? I do not think that we could have every application going through one body.

Mr Griffiths: You still need delegations.

Mr VENNING: Yes, you still need delegations. However, there needed to be something, and I think this is a pretty fair attempt by the government, with the amendments; I believe it is reasonable enough. I am pleased that the government has accepted the amendments. It means that it listens and that it has some understanding of—

Ms Chapman: And they can count!

Mr VENNING: And they can count. I agree with what the member for Enfield and others have said: what we have now is inadequate. I appreciate Mr Griffiths and the expertise he has brought to this house as the member for Goyder as a result of his previous vocation. It is interesting to sit on both sides of the fence with respect to this issue. The member for Enfield raised his concerns, and I interjected and asked him whether it was the Charles Sturt council. I know he has another connection to that council (and I will not dwell on that), but his frustration showed in his presentation tonight. We are all involved in this matter in various ways. It is an inconsistency with respect to the application of the rules, especially the setbacks that I discussed earlier.

There are several questions that I would like to ask the minister, and the first relates to the public officer. Can a public officer be the CEO of the council? Is the minister listening? I hope he is. Can the CEO be that public officer, and for how long can he or she be appointed? The role of public officer is set out in the bill. Clause 10(26)(27) provides:

> In addition, the minister may, on application by a council with an area that lies wholly outside metropolitan Adelaide, exempt the council from the requirement to establish a panel under this section if the minister is satisfied that the number of applications for development plan consent made to the council as a relevant authority under this act in any year (on average) does not justify the constitution of a panel under this section.

Does the minister have a number in mind?

The Hon. J.W. Weatherill: No, but have you?

Mr VENNING: No, I have not thought of that magic number, because some country councils would have only 10 or a dozen a year. I am happy to negotiate with the minister. Does the minister have some idea of what that number would be? I, like most members of parliament—

The Hon. P.F. Conlon: It's your amendment.

Mr VENNING: No figure was put upon it. I agree. It is our amendment, but the government has agreed to the amendment. In agreeing to the amendment, does the minister have a figure in mind? To me, that is a very importat issue because I have councils that would be extremely interested.

The Hon. J.W. Weatherill: I will tell the member what I had in mind if he tells me what he had in mind.

Mr VENNING: I would say that all country councils should be exempt, apart from the big ones. The regional cities certainly are in, but areas such as the Barossa, which would have a lot of applications, would be a borderline case for the minister to consider. I am pleased that the councils can appoint their own qualified independent people and select the chairman without ministerial consent. I think that is a good way to go.

This is very expensive, and I am concerned about that. Every time the DAP meets, I am told that it is quite normal to pay these people $250 a sitting. So, councils could be up for $1 000 every time the DAP sat. These costs are all handed on, and it is expensive enough already for people applying for planning approval; there is already a fair penalty on it. If we whack on the costs of these development panels, it will be prohibitive, and it will push it into the big league very quickly. I am concerned about that. However, certainly, I favour five being the number rather than seven.

I have been lobbied (as have most members of parliament) by my own councils, particularly a mayor who is very close to me. They said that they were very concerned about the huge cost this could involve for their council, and that is true. We have a lot of Sir Humphreys in the state government, and I am afraid to say that we are now getting a lot in local government. These empire builders—

Mrs Geraghty: You are sitting next to your friend; it's starting to rub off. You will be talking about the bureaucracy next.

Mr VENNING: I want to say on the record, because the member for Torrens is provoking me, that I was very involved with the minister at the time in relation to the local government amalgamation act, and I am very disappointed in the final result, because we set these things up to provide efficiencies with respect to local government. All I can say is that, with respect to many of them (but not all), it allowed them to build up a huge bureaucracy. So, rather than save on administration, we allowed them to build up huge administrations. Just have a look at where people's rates are going. When I ring a council (I will not name it, and it is not the Barossa) and ask to speak to the planner, I am told, 'I'm sorry; the planner is out. Would you like to speak to the deputy planner?' 'Yes, thank you.' 'I'm sorry; the deputy planner is out. Would you like to speak to the deputy planner's secretary?', I thought: how many do they have there—six? And it was only a reasonable sized council. Good lord! And they would not be paying them peanuts. It is unbelievable.

We really need to keep a cap on it. I am disappointed that, when we dealt with the local government amalgamation act, we did not allow the benchmarking clauses to remain. They were in there originally, and on their travel to the other house they were left out, which I am very sad about, because now councils are not benchmarked to each other, and they ought to be. We have some very efficient councils out there that are model operations, and we have some shockers. The difference between the good and the bad is huge, and various members have commented about this. I read the Messenger Press and other publications.

I hear what they say about certain things, and sometimes they know and sometimes they do not. Let us not get too precious about this matter. You must forget where you came from and think about where we are going. I do welcome this bill. I thank the government for accepting the amendments because, in the end, we are going some way to solving what is a pretty prickly problem. We do not want to be unpleasant. I do not want to be personally unpleasant to people. Planners have a job to do. They do their PARs with all the goodwill in the world; it is just that the interpretation of these PARs has been all over the place. I believe that tonight we are going a long way towards sorting out these problems. I support this bill with the amendments put forward by the Liberal Party.

Ms THOMPSON (Reynell): Representing an area which is fairly settled but not so settled as to be into redevelopment, and not having trees that have been established long enough to be significant, I have been able to avoid the delights of development assessment panels for most of the time I have represented Reynell. However, recently I had an experience with a development assessment panel which showed me that there were severe inadequacies in the process. I foolishly supported a motion in this last parliament to enable clubs to bring various poker machines together into one facility. I was under the misapprehension that the machines would be consolidated in an existing club, but to my chagrin I found that new facilities are being established and pokies are being brought from far and wide—nothing like the local area—into one facility. This is happening in my area.

The process has really illustrated problems with the current development assessment panels. The first problem occurred when the planners and council had to consider whether or not this was a conforming application. The council considered that it was, because the previous use of this facility had been a dining facility for about 162 to 200 patrons, and the new facility would also provide dining facilities, the only difference being that the proposal was for 28 to 32 dining seats as opposed to 162 to 200. I did not see that as a continuing use but, according to the development assessment plan, it was a continuing use. The other use to which this facility was to be put was for the installation of 40 poker machines and a bar to seat up to 60 people. The fact that these were considered to be the same astounded me.

The other factor that was significantly different was that the previous use of this facility had been directed at pensioners and family groups. Its main business was during the day. The new facility was targeting an entirely different group and was expecting to stay open until 2 o'clock in the morning. This had a quite different impact on residents who were used to its being a busy facility during the day and sometimes until about 8 o'clock at night, but not operating regularly until 10 o'clock, 12 o'clock and, on occasions, 2 o'clock in the morning. The fact that this was considered to be a continuing use was quite amazing not only to me but also to many of my constituents.

Also concerning was the role of the local elected members on the development assessment panel. As the minister pointed out in his second reading explanation, the amendments enhance the role of councillors as they are currently constrained (according to advice he has recently received from the Adelaide Hills Council) in their role as advocates for their community. The minister states:

> The Adelaide Hills Council has also forwarded to me legal advice to the council confirming that elected members on the council development assessment panel could not speak at a public meeting held on a proposed development. The legal advice correctly indicated that the panel members must not only be impartial but they must be seen to be impartial at all times when undertaking the statutory development assessment decision process. Just like the judiciary, they should not knowingly compromise their impartiality or even be perceived to be doing so.

The member for Enfield has very eloquently illustrated the lengths to which this can be taken. The outcome of this provision was that the most active members of council related to the area were also on the development assessment panel. They were therefore not able to discuss with residents their concerns about this particular facility. I found that I had to undertake the role of local government and support a number of residents in their objections with respect to writing their objections and voicing them at the development assessment meeting, as well as contributing a fairly comprehensive submission myself.

The member for Mitchell talked about the issue of development assessment panels being closed. On this occasion I reflected on the difference between what was happening in the public deliberation process and what happened in the rigour of our own standing committees. It seemed to me that the members were very constrained in being able to debate fully and freely the merits of the submissions that had been made to them when everyone was sitting there watching them. Really, they did not reflect on what had been said. I thought that some of the submissions did require quite a bit of reflecting on, as well as quite a bit of shared understanding among the members of the development assessment panel. Certainly, it is my experience that, in a standing committee where the public can hear the witnesses but not the deliberation of the committee, there is an opportunity for members to reflect on and discuss what has been put to them in witness submissions, to be able to consider where submissions are consistent and inconsistent (either internally or between each other) and to be able to come to some agreement on the content of the submissions.

It seemed to me that that opportunity was really not there when we were all sitting there listening to every single word that was being said. Certainly the members did retire briefly, but that seemed to be more a tea and a loo break rather than a reflection. The debate that proceeded was really quite constrained compared with what happens on standing and select committees. So, I can see how closed committee deliberations could, in fact, enhance democracy rather than obscure it.

So, it seems to me that development assessment panels have a very difficult task indeed. When new facilities—such as this pokies facility—that were not envisaged at the time that the plan was developed suddenly arise, their work is very challenging and they need to be able to use every bit of expertise they can to sort it through. Council members need to be able to participate vigorously in community debate, and people, in considering the submissions put before them, need to be able to do so in a robust manner and not feel that they have to guide every p and q in case somebody jumped on them later.

I commend the minister on his initiatives in enhancing the democratic processes of local government. I recognise that there are many more steps to be taken and I also recognise that this might not be the be all and end all. But to me, it is a significantly important step that we are taking in enhancing the role of local government and enabling community members to have more say about the area in which they live. I support the bill.

Mrs REDMOND (Heysen): I rise to add a small contribution on the bill simply because, like so many others in this place, I have had some time in local council, albeit a long time ago. Certainly, in the area where I represented a local government area we always had quite contentious planning discussions. Indeed, the council that I was on could never form a planning committee other than as a committee of the whole council because everybody was so concerned about planning that no-one was prepared to let anyone else make any part of a decision about planning. Some of the issues that used to come up are still the sorts of issues that come up today. We would often have a report from a planning officer, engaged as an employee of the council, making a recommendation based on the appropriate planning

rules and the provisions of the planning regime which then applied.

But councillors, if they had been lobbied sufficiently by certain members of the public, would disregard that advice and make a planning decision which did not accord with the recommendation of the planning officer, and that recommendation was normally based on some pretty sound principles. The consequence of that, of course, was that the person who had made the application, who then had their application rejected, would appeal to the appropriate court. The first witness that they would call would be the planning officer of the council and that would win their case for them. What we did was go around in a big circle. They would ultimately get their planning approval but the council would have spent several thousand dollars extra in legal fees because it was not applying the appropriate regime.

So, I agree with the comments that the member for Enfield made about the need for us to concentrate on ensuring that the planning regime for the planning decisions is appropriate. I have thought about this long and hard because I can see both sides of the argument. On the one hand, we elect representatives to local councils and we expect them to make decisions which are relevant to us on a range of issues—including planning—that come before the council. On the other hand, you have the problem that I just alluded to, where they are not thinking about putting on their hat as a quasi judicial authority applying a set of rules that are already in place. They are often being lobbied quite strongly, and often by an applicant or a minority group of some sort. When I was on the council my attitude always was that it did not matter, and it should not matter, whether it was my best friend or my worst enemy that came in with a planning application; they should get exactly the same result because it had nothing to do with anything but applying the rules that should have been in place.

So, having thought about this for quite some time, I am ultimately quite comfortable with the proposal as it now is before us, with the amendment that has been inserted in the upper house, and that is, as I understand it, that planning panels will now have a majority of people who are appointed, rather than the elected members, but those appointments will not be subject to any sort of veto or control by the minister. I think that reaches an appropriate balance. So, unlike the member for Enfield, I think we do reach a reasonable balance once we get to that position.

There are a few other funny things though. I always still find it very odd that—as I understand the current system—if you are a member of the planning panel then you cannot be lobbied. But if you are not a member of the planning panel but you are a member of the council, then you can be lobbied. So you get this obtuse situation where the people having to suffer the lobbyists trying to have a go at them about an issue are the very people who are not authorised to make the decision about that issue. That does not make a lot of sense to me. But I do think that we do need to—if we put these proposals in place—make sure that councils do have the ability, and particularly that the elected members of council have the ability, to put the planning in place and to make sure that they have a very clear picture of how their area is going to look in the future.

One of the problems that they allude to quite consistently—so, I have no doubt that that is what happens—is the difficulty with getting plan amendment reports done, finalised, approved, and so on, because that is the other side of it. If we are going to have planning assessment panels making the decision instead of the elected group, that is fine, provided the elected group get to make the decision about what the rules are going to be and how the area is going to look.

That is the key to appropriate planning because, theoretically, if you put your rules in place appropriately enough and comprehensively enough, any application that comes in is really a tick the box exercise. You go through and see whether the application complies with what the planning provisions for the area require, and that will solve the problem. So, I think we still need to do some work on that side of the equation because that has been the most consistent objection that I have heard from councils in terms of their very strongly voiced concerns. They have, no doubt, lobbied not only myself but also numerous other members of both houses in relation to why they are concerned with the idea of having panels which have a majority of planning people.

I have only one other brief comment to make, one that I make on every one of these bills where I see a provision—and in this case it appears in clause 10(3)(d):

> the council should ensure—
>
> (i) that at least 1 member of the panel is a woman and at least 1 member is a man;

I get up regularly and try to remind this house and this government that we are now in the 21st century, that the job to be done in this case has absolutely nothing to do with the gender of the people who are to do it, and it is, therefore, absolutely nonsensical to say that gender in any sense should be a part of the requirements for carrying out the job that is to be done. I object to this every time it appears. I wait for governments of any persuasion to wake up to the fact that what you are doing is continuing discrimination and continuing inequality by even recognising and stating that there should be one man and one woman. It is a nonsense in the 21st century to be continuing to draft legislation in this way. I do not intend to take that to any sort of vote or division when we go into committee, but I want to place on record my strong objection to this continuing use of legislation that comes through this house time after time with that peculiar provision for any panel or board that this government appoints.

With those few words, I indicate my support for the bill in its amended form as received from the Legislative Council, and look forward to its speedy passage, but also look forward to the government doing something about the ability of the councils to deal with, in a more comprehensive and faster way, the issue of getting appropriate plans in place for each council area.

Ms CHAPMAN (Deputy Leader of the Opposition): I rise to speak on the Development (Panels) Amendment Bill otherwise known as the 'Development (Let's Get Stuck into Burnside) Bill'. I wish to make a contribution in a number of areas. I will briefly summarise the position as I see it to date, that is, that the Premier in response to a direction set by the ERD said, 'We need to sort out councils.' Shortly before the recommencement of this parliament he made a public statement, on 27 April, that he was going to go out there, and he was going to comply with these directions, and he was going to make sure it happened. I was down at Glenelg on the morning that he made this big announcement, and he was going to fix this, he was going to make sure that panels were professionalised, and that they would be under control, that they would be doing as they are told in relation to ensuring that they complied with their plans, that we would have

consistency, and that there would be a timeliness and procedural certainty for the community.

That is the gist of what he had to say, and I will guarantee that even though we have made very substantial amendments through the excellent contribution made by members in the other place—and in this place, with the leadership of the member for Goyder, in what is his near maiden management of a bill in this house, excellent as it has been—the Premier will go out again after this bill has been dealt with in this house and he will pretend—the great pretender that he is—that he is out there helping us sort out the development applications in councils, and that he has delivered. We know that that is not the case. Fortunately, what started as a botched idea has, to a large degree, been cleaned up in the other place. At least the minister in this house has had the good sense to count and understand that it is better that he has this than the embarrassment for the Premier to go out and say, 'It failed altogether.'

Let us go back to this bill. This is a bill which the government introduced to provide greater policy, procedural timeliness and certainty to the community along with a raft of other bills that we have not seen yet. We are not allowed to see these other bills. One of them is to tidy up the PARs, the plans of councils, to ensure that they are properly addressed, and that they are owned by councils. We are not allowed to see that; we are not allowed to see these other bills; they have been cut up into four bills and, so, the other three, mystery that they are, we do not know. Yet, we all know in this house that one of the biggest problems for councils is that, whilst we sit here and listen to the pretence from the government that councils get to set their own plans, we all know that they are ultimately the determination of the minister. So, it is a complete nonsense to have a situation to start with a premise that you have to separate the role of policy developer and policy administrator. It is a complete fallacy to think that we should separate these two issues, and not tidy up the first and at least see if that remedies a lot of the problem.

The other matter that I would like to raise concerns the composition of the panels, and I just want to place this on the record. The composition of the panels was initially directed in the government's plan to be professionalised—and I want to say something about that in a moment—and to be, effectively, under the veto control of the minister as to the composition. I am certainly far from convinced that that program, although effectively being defeated in the upper house, is one which will remedy the problem. It is interesting to note, Madam Deputy Speaker, that nowhere else in Australia has this issue been taken up and, yet, nowhere else in Australia are they labouring under a better or worse system than we are. They do not have chronic delays in New South Wales or Victoria or Western Australia any more than you would argue the timeliness in this state. Even the advisers—the minister might be scoffing over there, but his advisers confirm this. They have not had that problem interstate; the Property Council has confirmed this. But, oh, no; we are going to do it, because we have to be the first to do everything, even if there is absolutely not one scintilla of evidence that it actually works.

The Hon. J.W. Weatherill: You are so out of touch.

Ms CHAPMAN: That is the advice that has been given to us. If the minister chortles out that we are so out of touch, perhaps he ought to get his advisers a bit better briefed when he comes to tell us what the situation is. That is the situation we have been told of.

The other aspect I want to raise in relation to the basis for having this change by the government is that this is a terrible situation we have with councils. In one recent judgment of the Environment, Resources and Development Court, it was found that the acting presiding member of a panel had not had proper regard to all the relevant policies, etc., under the plan. The usual case is that, if you do not do it properly, you are subject to appeal and you can get rolled. I can tell members what the biggest deficit of that process is. It is not that you do not have the right to appeal, because at least you have that: the biggest deficit in that process is that, if you win against the council, you cannot even recover your costs, and that is outrageous. If government members had any guts whatsoever, they would come into this house and say, 'Well, we agree.' Applicants who come into the ERD Court and seek redress and are successful have to pay all their costs and they have no capacity to recover those costs—and that is outrageous. Why? Because in this government, they never have this argument in relation to costs. There is this namby-pamby, wishy-washy sort of arrangement with costs. They never deal with the confronting issue, that is, making councils accountable. If they fail to have regard for the proper aspects of the legislation or plan that is before them, they get rolled on appeal and they pay the costs.

I want to say one other thing about professionalism. One of the most serious things that has to be decided upon in this state and, in fact, across the country, is whether someone goes to gaol for life on being convicted for murder. Who makes that decision? Not a judge, not professionals, not experts, but 12 men and women who are plucked off the electoral roll and decided out of a pool, who often have never been in a court and have no idea what the Criminal Law Consolidation Act says about murder. Some of them probably cannot even spell 'prosecutor' or 'defendant' in relation to the role they are about to take on, making a decision about whether someone spends the rest of their life, subject to a nonparole period, in a prison. That is a very serious decision, yet every day, except weekends, down in the Supreme Court in this state, 12 men and women sit there making a determination on a man or woman's life, and they have not one scintilla of expertise. In fact, if you are a lawyer, you are usually excluded, because lawyers are likely, in the circumstances, to have some degree of bias.

If we have a system which enables people who are not deemed to be experts to make that sort of decision—and if they do not do it properly, we have an appeal process to protect that—why on earth can't members of a council, panel or otherwise, make that decision? So, 'professionalising', adding in 'experts', which has now been watered down to just about any area you can possibly imagine, does not translate into producing a better outcome.

There a couple of other points I want to make on this issue. I cover two councils in my electorate, one of which is the City of Norwood, Payneham and St Peters. That council has put a submission to me which essentially says, 'Look, we are a council that operates with our own panel. We have agreed to do this since July 2001. We did a review of all our applications from May 2005 to May 2006. Of the 1 184 applications, 98 came before our panel, which equates to approximately 8 per cent of all our applications.' We have heard this submission from a lot of councils. They had 3 per cent of all applications considered by DAP that were deferred, which can then arguably be translated to being in need of some kind of review or assessment. In light of that, it is the council's position that neither the size nor compo-

sition of the panel will determine the timeliness or quality of those decisions. So, the council has made its decision very clear, and the council wanted to maintain some autonomy to do what it has been elected to do, that is, to make those decisions. As I have said, fortunately, with some of those amendments, that has been dealt with.

What is concerning is that we have the 'one size fits all' proposal, which now has an exemption at the discretion of the minister in certain cases—and we have now separated off the rural from the metropolitan. I just want to say this: why should the Norwood, Payneham and St Peters council be treated the same as the Tea Tree Gully council or a council down in the western area or a council in the southern area in the metropolitan area, because it is different; it does have different aspects for consideration; it does have different expectations for the community it represents; and it does have very significantly different areas of green space or non-green space. So, of course the council needs to be given some consideration. I think a determination based only on whether councils are rural or metropolitan, or only by virtue of the fact that there would be only a very small number of applications, is an inadequate differentiation. I think that is a disappointing aspect of the bill that should have had some more attention.

In relation to the Burnside council, it has similarly made a number of submissions. That council, like Norwood, Payneham and St Peters, also has a very small number of applications relative to its total number of applications that its panel, which the council has had for a number of years, determines, and of that number, the council has, I think, not an insignificant number of appeals that ultimately end up in the ERD Court. When I look through its annual reports, I see that it is quite a significant cost to the council just to pay for its own legal fees to defend these and, quite often, it loses. Applicants are out there who might be successful but, on the other hand, they are left with the cost of having made that application. I think that there is room to consider whether that needs improvement.

I hope that the house will appreciate that simply professionalising the panels—and we have had no definition or regulations as to what this definition will be, which is another area of secrecy—will not remedy that situation. Again, if the Burnside council is not playing by the rules, let it be the subject of a cost order. The government should have the courage to come forward and deal with that matter.

In the surrounding media coverage on this matter, I noticed with interest the front page of *The Independent Weekly* last week, headlining an article by Bill Nicholas entitled 'Why is it so difficult to deal with councils?' Of course, you find that the article is all about the Burnside council. Nicholas is highly critical of the council when he uses a specific example of an application for both a development and a land division for a property in Beaumont. The name of the owner is disclosed in the article; I do not need to repeat it. I will say that, 18 months later, as is disclosed in the article, the matter is still not complete. This is the basis for the criticism: what have councils done? Why have they taken so long? The certificate of title has not even been issued yet.

I want to give a thumbnail sketch of the time frame of events so far. The application was lodged on 22 December 2004. A request for further information—eight days later and over the Christmas period—was issued by the council on 30 December 2004. Application fees were paid on 13 January 2005. Additional information was received on 21 January 2005. An email was forwarded on 3 March 2005, discussing issues and redesign required. Amended plans and details were received on 17 March 2005. Further amended plans were received on 5 May 2005. Again, further amended plans were received on 20 May 2005. So, from March to May, we have the applicants putting in for further applications. Public consultation was undertaken on 30 May 2005, which was completed on 15 June. The DAP report was finalised on 28 July. The DAP agenda was distributed on 11 August. The DAP decision was made on 23 August 2005 and the planning consent was issued 29 August 2005. That is 7½ months, but two months of that at least need to be discounted to exclude the time taken to receive the fees, further information and amended plans by the applicant.

The proposal had significant heritage, right of way and design issues, which required significant discussions with the applicant, the adjoining owner, the architect and the council's heritage section, all of which are based in legislation by this parliament imposing those obligations on councils to consider, and offer as agent, to obtain the information. The building consent was issued by a private certifier on 20 February 2006 and 24 March 2006, and received by council on 4 April 2006. The development approval was issued by the council on 6 April 2006. I think that is pretty timely.

Let us look at the land division because, after the completion of the planning assessment—not contemporaneously, but after—they then proceeded prior to the submission of the building consent for the dwelling. The application was filed on 26 September 2005 with the Development Assessment Commission (DAC). The application was forwarded to council on 20 October 2005, and it was referred to all the state agencies that I have mentioned. Referral to SA Water occurred on 20 October 2005 and 4 November 2005. A phone call was made to the surveyor from the council, requesting further detail in relation to the fire safety issues—another state obligation—on 12 December 2005. Further information was received from the applicant but no information on fire safety on 14 December. A meeting took place with the architect to discuss other issues, but land division and fire safety issues were raised on 22 February 2006. The architect was to follow up with the surveyor. Phone calls were made between the council and the architect, the council and the owner, and the owner and the council early in March. All outstanding matters, including rights of way and fire safety resolved with the decision to be granted by the council shortly. They are waiting on a title, and guess who is responsible for the title? Of course, it is a state department, not the council.

I think we need to appreciate here that we are talking about timeliness of applications. We need to understand that this parliament, long before I got here, made a whole lot of laws that required us to take into account important issues in relation to heritage, character, transport and fire safety requirements, all of which we need to consider when we are too quick to jump sometimes in criticising councils in relation to timeliness. In this case, two separate applications had been lodged. I think it is important that we appreciate what we are really dealing with here, which is some councils some of the time acting in disregard and making inappropriate decisions. There is a proper course and remedy to deal with that, and it is not this one.

Secondly, councils have an obligation to get their PARs right, and we ought to have that legislation that is proposed to tidy that up, allegedly, before we debate this bill. But it still remains a secret, and it is unacceptable for this parliament to

have to make a decision in relation to the secondary issue of whether the councils are actually complying with their role in the implementation and enforcement of that plan without having properly sorted out the plan. As I said earlier, I am concerned that, as of tomorrow or the next day, we are going to have the Premier rush out to say, 'That is terrific. We have cleaned up this issue. We have complied with our ERD request and we have sorted this out.' No-one is going to win out of this legislation, and the people who will face the biggest disappointment will be the property developers.

I would like to say this final thing. If this government was serious about helping property developers it would have taken a timely approach to dealing with the bodies out of the crypt in St Georges. That has held up a development for a whole year, not to mention keeping the bodies sitting in a funeral parlour down at Thebarton. The government has held up that development for a year when it has been entirely in its hands to sort it out and allow the development to proceed properly through the council and for the developers to get on with what they are doing. The government speaks with forked tongue when it comes to supporting the developers of this state.

Mr HAMILTON-SMITH (Waite): I am delighted to rise to support the bill as amended. It is a compromise between the government, the opposition and the Independents in the other place and, as a consequence, not everyone will be happy. In fact, everyone will probably be unhappy and that is probably an indication that we have, substantially, got it right. The developers have not wholly got what they wanted, local government has not wholly got what it wanted, and some members of the community will not wholly have what they want; however, I think we have, in all likelihood, developed an outcome that will be acceptable to all, and that is good.

As the member for Waite I want to acknowledge the advice and guidance I have received on this from Mitcham council, in particular from the Mayor, His Worship Ivan Brooks, and the CEO. They want the house to note that an LGA survey of all South Australian councils, conducted between 1 January and 30 June 2003, indicated that 94.4 per cent of all applications for provisional planning consent were determined by council staff under delegated authority, that 0.1 per cent were determined by full council, and that only 5.5 per cent were determined by development assessment councils. Clearly, Mitcham council members were not happy with the substance of the bill, but I think they will acknowledge that as a government measure—and given that the Labor government is the master of this bill and has the numbers—there was going to be change. I hope they will be relieved that the opposition, in conjunction with the Independents in the other place, have been able to soften the bill, I think, to reduce the impact it may have on councils to decide the future of development within their council precincts.

Following my friend, the member for Bragg, I make the point that Mitcham council, along with Burnside council, often comes in for a bit of a pillorying. I would like to draw the house's attention to the fact that Mitcham Council runs itself pretty professionally nowadays, and I think it has a pretty good record in terms of getting the balance right between development and preserving our living and built form in the Mitcham precinct. I also want to acknowledge Heather Beckmann and others who form part of the Blackwood/Belair and District Community Association Incorporated who also wrote to me expressing their concern on behalf of the community about the impact this bill might have if it passed without amendment. I read their submission carefully, and I hope that they too will be relieved that the bill has been softened by the opposition. I am sure they will not be happy with it in any event, but it has been softened and, if the government agrees with our amendments, councils will retain control, if you like, of the DAP process to a degree. The option put forward by the state government would have seen it pretty much controlling DAPs at a local level.

The premise with planning is always simply this: people want the optimum amount of freedom to do whatever they want and the maximum constraints on everyone else to get out of their way and not interfere with their amenity. We are all the same. The nature of business is that we all want to be left alone to do what we want to do and not be interfered with by others—but, of course, we all want to have a say in what others are doing should it interfere with our amenity. That is a reality. This is one of the great debates in our community: between development on one hand and the anti-development, or status quo, lobby on the other. Just like the country/city divide, this is one of the great debates, and it is an interesting one and one in which we need to engage.

I have to say that I understand where the government is coming from, and I understand where the Economic Development Board is coming from. Before entering this place, as a business person I was at the sharp edge of this and had to take two councils to the environment court on appeals.

An honourable member interjecting:

Mr HAMILTON-SMITH: No names, no pack drill. I will not mention the two councils, but I will say that as a developer and a small business person I had to take them both to court. On both occasions council's professional officers—

An honourable member interjecting:

Mr HAMILTON-SMITH: I had a very good lawyer; I won both cases, but I will talk about that later. In both instances the professional officers of the councils agreed with the development application, but the elected members, in response to a small but rowdy group in the street, opposed the measures. I seek leave to continue my remarks at a later date.

Leave granted; debate adjourned.

ADJOURNMENT

At 10 p.m. the house adjourned until Thursday 22 June at 10.30 a.m.