LEGISLATIVE COUNCIL

Tuesday 20 February 2007

The PRESIDENT (Hon. R.K. Sneath) took the chair at 2.17 p.m. and read prayers.

ASSENT TO BILLS

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

Criminal Law Consolidation (Drink Spiking) Amendment,
Development (Building Safety) Amendment,
Emergency Management (State Emergency Relief Fund) Amendment,
Forest Property (Carbon Rights) Amendment,
Genetically Modified Crops Management (Extension of Review Period and Controls) Amendment,
Liquor Licensing (Authorised Persons) Amendment,
Road Traffic (Notices of Licence Disqualification or Suspension) Amendment,
Southern State Superannuation (Insurance, Spouse Accounts and Other Measures) Amendment,
Statutes Amendment (Domestic Partners),
Statutes Amendment (Electricity Industry Superannuation Scheme),
Statutes Amendment (Justice Portfolio),
Statutes Amendment (Public Sector Employment),
Summary Offences (Gatecrashers at Parties) Amendment.

QUESTIONS ON NOTICE

The PRESIDENT: I direct that the written answers to the following questions on the *Notice Paper*, as detailed in the schedule that I now table, be distributed and printed in *Hansard*: Nos 170, 172 and 515.

QUESTIONS ON NOTICE, REPLIES

170. **The Hon. R.I. LUCAS:** Will the minister provide answers to the following questions asked on the dates indicated below and recorded in *Hansard* under the subject lines indicated below, that the then Minister for Aboriginal Affairs and Reconciliation either took on notice or indicated he would refer to a minister in another place and bring back a reply:

1. 30 May 2002—Teachers, Wage Offer;
2. 12 May 2003—Public-Private Partnerships;
3. 15 May 2003—Freedom of Information;
4. 25 September 2003—WorkCover;
5. 3 December 2003—Business, Manufacturing and Trade Development;
6. 18 February 2004—Mitsubishi Motors; and
7. 22 September 2005—Gaming Machines?

The Hon. CARMEL ZOLLO: I advise:

No. As the honourable member is aware, all business on the *Notice Paper* as at 1 December 2005, including all Questions without Notice asked prior to that date, has lapsed due to the prorogation of the 50th Parliament.

172. **The Hon. R.I. LUCAS:** Will the minister provide answers to the following question asked on the date indicated below and recorded in *Hansard* under the subject line indicated below, that the then Minister for Aboriginal Affairs and Reconciliation indicated he would refer to a minister in another place and bring back a reply:

27 May 2003—Trade Promotions?

The Hon. CARMEL ZOLLO: I advise:

No. As the honourable member is aware, all business on the *Notice Paper* as at 1 December 2005, including all Questions without Notice asked prior to that date, has lapsed due to the prorogation of the 50th Parliament.

OFFICE OF WOMEN

515. **The Hon. J.M.A. LENSINK:**

1. Will the Minister for the Status of Women outline the reasons for the Office of Women moving premises?
2. When will the move happen and has it now been confirmed that a move to the ground floor of the Riverside Building will occur?
3. What is the cost of differentiation between two offices in Roma Mitchell building and the refurbishment and renting of one space in the Riverside Building?
4. What and how much will be spent on advertising to inform the public of the move?

The Hon. G.E. GAGO: The Minister for the Status of Women has advised:

The Governor in Executive Council transferred the Office for Women from the Department for Families and Communities to the Department of Justice on 14 December 2006.

As a result of this administrative move, the Office for Women will not be relocating to the Riverside Building, which predominantly houses Department for Families and Communities offices.

A new location for the Office for Women is currently under review.

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Police (Hon. P. Holloway)—

Award of Route Service Licence on Adelaide-Port Augusta Scheduled Airline Route—Report
Inquiry into ETSA Utilities' Network Performance and Customer Response, January 2006—Report
Regulation under the following Act—
Security and Investigation Agents Act 1995—Licensed Agents and Process Servers
Rule of Court—
District Court—District Court Act 1991—Application for Review
Addendum to the Department for Transport, Energy and Infrastructure Annual Report, 2005-06

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

Town of Walkerville—Local Heritage Supplementary Plan Amendment Report

By the Minister for Environment and Conservation (Hon. G.E. Gago)—

Regulations under the following Acts—
Botanic Gardens and State Herbarium Act 1978—General
Liquor Licensing Act 1997—Naracoorte Area
South Australian Health Commission Act 1976—Single Room.

ABORIGINAL LANDS PARLIAMENTARY STANDING COMMITTEE

The Hon. J. GAZZOLA: I bring up the report of the committee for 2005-06.

Report received and ordered to be printed.

MENTAL HEALTH REFORM

The Hon. G.E. GAGO (Minister for Mental Health and Substance Abuse): I seek leave to make a ministerial statement.

Leave granted.

The Hon. G.E. GAGO: In August 2005, I asked Monsignor David Cappo and the Social Inclusion Board to prepare advice to the state government on how to reform South Australia's mental health system. Today I am pleased to table that advice in the form of the report Stepping Up: A Social Inclusion Action Plan for Mental Health Reform 2007-2012, and to announce that the state government will commit

to an investment of $43.6 million as a first step towards major reform of our mental health system.

The Social Inclusion Board undertook a wide-ranging consultation process that involved more than 1 400 people. Based on its investigation, the board's report makes 41 recommendations focusing on:

- implementing a 'stepped' system of care with community mental health teams at the centre;
- tackling the needs of patients with severe ongoing conditions by having a focused response to approximately 800 people with chronic and complex needs;
- aligning the South Australian mental health system with the COAG National Mental Health Action Plan; and
- redeveloping the Glenside Hospital campus as a centre for specialist mental health services.

The measures the state government is announcing today will see 33 of the 41 recommendations adopted even before the June budget. This is a significant start to implementing a blueprint to reform the state's mental health care system. The government will continue to consider the implementation of the remaining recommendations through the budget process.

The government is today committing to the centrepiece of the action plan, which is the stepped care model that seeks to fill the current gap between community care and hospital care. The proposed stepped system contains five different graduating levels of care: 24-hour supported accommodation; community rehabilitation centres; intermediate care beds; acute care beds; and secure care beds. These steps are designed to provide people with the most appropriate type of care for their mental health needs at any given time. They allow people to get the support they need when they need it. They are also aimed at helping people to stabilise and recover, rather than being caught in a revolving door of becoming very ill, spending time in hospital and then immediately returning home.

For instance, those who may be ready to be discharged from an acute hospital bed, but who will still require significant support before they return home, will have alternative care when needed. They will be able to be admitted to intermediate care, which is short-term, fairly intensive care led by nurses. People who need longer term assistance to rehabilitate will also be able to enter a community rehabilitation centre, which provides for stays of about six months, with therapeutic services provided on site. The system is also designed to work in the opposite direction by allowing people to be admitted to community rehabilitation services or intermediate facilities before they reach crisis point and have to be admitted into an acute bed in a hospital situation through our emergency departments.

This is a groundbreaking action plan, one that I believe will lead to the greatest reform South Australia's mental health system has seen in decades. I am delighted today to announce that we are committed to implementing the reform recommended by Monsignor Cappo and the Social Inclusion Board. I am told that the reform of the mental health system proposed in this first response to the plan will deliver an estimated 76 additional beds across all five levels of care, bringing the total number across the adult mental health system to about 506.

The state government's $43.6 million funding package includes:

- $18.2 million for 90 new intermediate care beds, with 60 at four centres across Adelaide and 30 in country hospitals;
- $20.46 million for an extra 73 beds in 24-hour supported accommodation across Adelaide;
- $1.84 million to allow a smooth changeover between the current system and the new five tiers;
- $1.6 million to place eight mental health nurse practitioners in regional areas over the next four years; and
- $1.47 million to provide priority access to services for about 800 people with chronic and complex needs, including those who have drug and alcohol problems or a history of homelessness or who may be involved in the criminal justice system.

The focus on those with chronic and complex needs will help provide more consistent treatment to prevent relapses for those patients and to reduce their repeat admissions to hospital. Those in need will be identified and then given priority access to care services in order to help keep them out of hospital and improve their quality of life. The development of the new 24-hour supported accommodation facilities will also be invaluable in providing for these people.

The new system will be built upon three community rehabilitation centres that the state government is establishing across Adelaide for up to 60 people at a time who need extra support. People who are ready to leave the intermediate care facilities but are still not ready to go home will be able to access services at these rehabilitation centres. As announced during the March 2006 state election campaign, the Glenside campus will remain the site for specialist mental health services in South Australia. The rural and remote service will be retained, and drug and alcohol in-patient services will be provided on campus, recognising the importance of treating people with both conditions. A master plan for the Glenside campus will be announced later this year.

The state government has already invested in the mental health system in South Australia. The new Margaret Tobin Centre, which has 40 adult mental health beds, is now one of the best acute mental health facilities in Australia. The Repatriation General Hospital also has a new facility, consisting of 30 state-of-the-art mental health beds. We have invested more than $19.9 million in the most recent budget for an additional 56 mental health workers to support GP surgeries and to provide therapy for children and young people. We are employing more than 80 additional mental health workers across the system as a result of the $10 million investment in late 2005, and we are supporting non-government organisations through an injection of $25 million to help deliver mental health support services in the community. The government has also recognised the importance of mental health to the community by appointing me as Minister for Mental Health and Substance Abuse.

Our next step, announced today, will be the start of an historic change to mental health services in this state. It will put people with mental illness at the centre of care and services, and it will allow them and their families and carers to enjoy a better quality of life. I take this opportunity to thank Monsignor Cappo and the Social Inclusion Board for their dedication to and passion for mental health reform in South Australia. I thank the many consumers, carers, clinicians and experts who have also willingly contributed their experience to developing the report.

QUESTION TIME

HOSPITALS, ACUTE BEDS

The Hon. J.M.A. LENSINK: I seek leave to make a brief explanation before asking the Minister for Mental Health and Substance Abuse a question about acute bed numbers.

Leave granted.

The Hon. J.M.A. LENSINK: Under questioning last year in relation to acute services bed numbers and waiting lists, the minister said:

> . . . we've got adequate acute bed numbers and we're committed to retaining those numbers. . . we're committed to the current levels of acute mental health beds. . .

In a separate comment, the minister said:

> I am very proud to say. . . that South Australia has, on a national average, quite a high number of acute beds.

The press release issued today by the minister and the Premier indicates that hospital acute beds numbers will be cut. Indeed, the Cappo report indicates a shift out of the acute system of some $12 million. My questions are:

1. Was the minister telling the truth last year?
2. Which hospitals will experience ward closures?
3. How much will the government cut from our acute hospital mental health services?

The Hon. G.E. GAGO (Minister for Mental Health and Substance Abuse): I thank the honourable member for the opportunity to talk about our new and most important reform agenda, which was announced today. A great deal of work went into the Social Inclusion Board's report, which was delivered today. It involved discussions and consultation with 1 400 people and has resulted in 41 recommendations—and this government is committed to the overall direction of all 41 of those recommendations.

As indicated very early in the piece, South Australia is committed to delivering a new reform agenda. We accepted that our mental health had been sadly neglected for many years, particularly by the opposition sitting across from us. For eight years, they sat on their hands and allowed our mental health services to virtually deteriorate and collapse around their ears. It was an absolute disgrace. We were committed to doing that. As of today, not only have we released the reform agenda with its 41 recommendations and the government's commitment to the direction of those recommendations but we have shown our commitment by announcing $43.6 million to deliver the first steps to that new reform agenda. This reform agenda outlines the new service deliveries, and members need to listen very closely to this—they obviously failed to listen to the ministerial statement—

Members interjecting:

The PRESIDENT: Order! The minister is answering the question.

The Hon. G.E. GAGO: The Social Inclusion Board identified that the current services are inadequate to meet our current needs. That was a clear finding from the report; that is, the current services are inadequate to meet our needs. The board identified a significant gap in services, a gap between the hospital-based services and the community-based services. The $43.6 million to which we have committed today will fill that gap. It will fill the gap with 90 new intermediate beds and 73 24-hour supported accommodation beds. We do not resile from the fact that approximately 48 acute beds will be replaced by the 90 intermediate level care beds. We have not resiled from that at all; that is in our media release, I understand.

When the stepped level of the reformed care is put in place, it will involve the steps of secure care, hospital care, intermediate care, community rehabilitation centres, 24-hour supported accommodation and, of course, packages in people's homes. When all those services are in place, it will result in an increase of around 76 additional new mental health beds across the system. As I have said, we have not resiled from the fact that the Social Inclusion report clearly identifies that South Australia has well above the national average of acute beds. The report found that the current services are inadequate and inappropriate to meet the mental health service needs of patients in South Australia. We are about to fix it, unlike this lot opposite who do not have a plan and who sat on their hands for eight years and watched this system collapse around their ears. We have a five-year plan and, what is more, we have announced that plan today with an up-front commitment of $43.6 million to build over five years—

An honourable member: Over how many years?

The Hon. G.E. GAGO: Over five years. The plan is over five years and funding components will still be delivered under the normal budgetary rounds of government. It is a five year plan. There will be further budgetary considerations. The Social Inclusion Board has produced a fantastic piece of work and I am very proud to have it presented to both houses today. It is to be followed by the government's commitment of $43.6 million to build a new mental health system, a stepped level of care system which will help provide a broader range of services to those people who need it most where they need it and which will stop this revolving door type cycle that keeps happening when people become seriously ill and end up clogging up the system.

Currently, we have no intermediate care beds in this state and only a handful of supported accommodation beds. This planned $43.6 million delivers a stepped model of reform to our mental health system and provides the building blocks for a new mental health service in South Australia.

The Hon. J.M.A. LENSINK: I ask a supplementary question. Given the minister's comments last year, at what point and by whom within the government was she informed that this government would cut acute bed numbers?

The Hon. G.E. GAGO: The government was given the Social Inclusion Board's report in late November. A great deal of work was done by government in putting together a response. The report is very detailed and comprehensive; a blueprint for the reform of our mental health system. It involves across-agency matters and a wide range of costing matters. A great deal of work has been done since early December on modelling and costing the recommendations. The final submission was endorsed by cabinet yesterday and the final plan is presented today.

The Hon. J.M.A. LENSINK: Given the minister's response, who makes the final decision about mental health issues: the minister or Monsignor Cappo?

The Hon. G.E. GAGO: Really, is the opposition member thick or something? After almost a year in opposition, does she fail to understand the structure of our mental health system? As Minister for Mental Health and Substance Abuse, I will take responsibility for the implementation of this fabulous new reform agenda.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Lucas has a supplementary question.

The Hon. R.I. LUCAS (Leader of the Opposition): Given that the minister's press release indicates that there will be 90 new intermediate care beds and 73 in supported accommodation (a total of 163) and that the minister also says in a press release that there will only be an estimated 76 additional beds, does this mean that between 80 and 90 acute and other beds have been removed from the system, given there is a net increase of only 76?

The Hon. G.E. GAGO: I am pleased to have the opportunity to respond to this supplementary question and, again, to promote the benefits of this new reform agenda that will deliver a new stepped system of mental health care to South Australians—something that we have not seen for decades.

In relation to the facilities, we have been completely upfront about our modelling, and we have stated quite clearly that approximately 48 acute beds will be replaced to include 90 intermediate care level beds, and about 129 extended care services will be replaced by 163 beds across a range of services. These include about 30 secure beds, 73 24-hour supported accommodation beds, and the 60 community rehabilitation centre beds previously announced.

CORRECTIONAL SERVICES, PRISON FACILITIES

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make an explanation prior to asking the Minister for Correctional Services a question on the subject of prisons.

Leave granted.

The Hon. R.I. LUCAS: As members will be aware, in the past week or so there has been ongoing debate about bail legislation and policy and the impact on the prison system. This morning on FIVEaa, as part of that debate, the Attorney-General responded to questions from Mr Leon Byner about whether or not there is sufficient room in our prisons for any additional prisoners as a result of the government's announcement this morning in relation to parole and bail. In response to a question from Mr Byner, the Attorney-General said:

> The point was to go back and study what went wrong and Correctional Services has been working all through the weekend and Monday on this proposal and we will make the space to back up our promise.

Mr Byner asked, 'How? You are going to release people now from prison?', and Mr Atkinson replied, 'No. There is scope for extra capacity to be created in our prison system.' Mr Byner then asked, 'Where? How?', and Mr Atkinson said, 'Well, by extra beds.' Mr Byner then asked the question, 'What, so you are going to have three in a cell?', and Mr Atkinson, on behalf of the government, said, 'If necessary that's what we'll do.' I repeat that the question was, directly and specifically, '. . . so you are going to have three prisoners in a cell?', and the Attorney-General, on behalf of the Rann government, replied, 'If necessary that's what we'll do.' My questions to the Minister for Correctional Services are:

1. What is the current policy of the Department for Correctional Services and herself, as correctional services minister, in relation to three prisoners in a cell?

2. If that is not consistent with current policy, is the Attorney-General correct in indicating that that is the Rann government's policy in relation to having three prisoners in a cell?

The Hon. CARMEL ZOLLO (Minister for Correctional Services): I thank the honourable member for his questions. I am confident that the Department for Correctional Services is properly managing our prison beds. It is, of course, planning to deal with fluctuations in prisoner numbers. In addition—and as we all know—we have committed to possibly the most visionary prison expansion in this state—the PPP—to be built and commissioned between 2011 and 2012.

An honourable member interjecting:

The Hon. CARMEL ZOLLO: Well, I think we should put things into context. What did you lot do in eight years? As I said, the department is preparing to face increases and fluctuations in the prison population in the intervening period before the new prisons are commissioned. The government is determined to ensure that we have a system that works to provide a safer community and, until those new beds come on line, it is important for the effective management of the prison system that we continue to explore opportunities to be responsive and flexible in meeting operational needs and managing risk. As part of the budget we have seen an extra 10 beds made available for female prisoners—transportable, of course.

An honourable member interjecting:

The Hon. CARMEL ZOLLO: What was your history? We not only announced the largest prison infrastructure project in the history of this state but, if we take juvenile detention into consideration, we are looking at over $0.5 billion—plus we have taken under immediate consideration 10 extra beds for female prisoners. It is not unusual for prison numbers to fluctuate, and in that regard the Department for Correctional Services has already been managing those prison numbers.

The Hon. R.I. Lucas: What is the current policy?

The Hon. CARMEL ZOLLO: The current policy—under your government as well—has seen a doubling-up in cells, and I think it is common knowledge that in emergencies we have also had to open the City Watch House. If my memory serves me correctly, that was also done in 2002 and 2003. We are also making plans to expand interim capacity in our male prisons and, as I said, we have funded additional beds for female prisoners in the last budget. Additional bed space is in the process of being provided at Yatala, Port Augusta and Mount Gambier prisons. I have also mentioned the City Watch House. In an emergency, if we have to see three people in a prison cell, that may well happen, but this government is making provision to ensure that it does not need to happen.

The Hon. R.I. LUCAS: I have a supplementary question. Is it the current policy to have three prisoners to a cell?

The Hon. CARMEL ZOLLO: This government continues to manage any fluctuation in our prisons. Of course, we do not have as a given three prisoners in any cell but, if we are looking at an emergency, that may well happen.

The Hon. R.D. LAWSON: I have a supplementary question. Has the government sought advice on the feasibility and practicality of holding three prisoners per cell? Has the government received any such advice and, if so, from whom has such advice been obtained?

The Hon. CARMEL ZOLLO: That is three supplementary questions. Clearly, the honourable member does not listen. This government always works to ensure that we have safe and secure prisons. Until the new beds come on line, we

need to have interim plans. It is normal in some cells to have a double-up or three people in an emergency situation, but we are not talking about it as the norm.

The Hon. NICK XENOPHON: I have a supplementary question. What protocols and risk management procedures have been considered when putting up to three prisoners in a cell, particularly placing relatively vulnerable prisoners with what could be termed hardened criminals in the same cell?

The Hon. CARMEL ZOLLO: The Hon. Mr Xenophon does not listen, either. I said that it was not the norm. In any prison population we need to be flexible, particularly until we see the new prison beds come on line.

NATIONAL PARKS, BOUNDARY FENCES

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Environment and Conservation a question about national parks fencing.

Leave granted.

The Hon. D.W. RIDGWAY: Recently I was contacted by a real estate agent in the South-East who had listed a property for sale which had a boundary that met a national park. The boundary included approximately 1.5 kilometres of boundary fencing. The fence was an old split timber and netting fence—similar to one you may have erected in your youth, Mr President—and in poor condition but not burnt. The potential purchaser of the property asked whether the department had a policy in relation to fencing, that is, a 50 per cent share—which, I am sure you would understand Mr President, is the normal practice when two neighbours have an adjoining boundary fence; and whether there was any obligation to assist the purchaser.

The real estate agent contacted the Naracoorte office and was advised that at this stage there was a change in policy, there was a cut to funding any sort of fencing, it was the farmer's responsibility and there would be no compensation from the department. The officer then told the real estate agent that about 90 per cent of the traffic across that fence line is from the national park into the landowner's property, mostly with emus invading the property. My questions are:

1. Is the minister aware of the policy change by the department?

2. Were stakeholders consulted prior to the change of policy?

3. Is the minister aware of the usual practice of adjoining landowners facing each other and building what is on their right-hand side as a 50 per cent share?

The Hon. G.E. GAGO (Minister for Environment and Conservation): In relation to fencing for national parks, I have been informed that fencing is the responsibility of the property owner adjoining the national park. I do not have in front of me the exact timing of that policy, but I understand that it has been in place for some time.

The policy is regularly reviewed and updated. I understand that, generally speaking, for a number of years the guidelines have indicated that, in fact, landowners have been responsible. However, there have been some exceptions to that as a result of negotiations with the department and special considerations made on a case-by-case basis where, in effect, the department has contributed to part of the cost of fencing. However, as I said, that has been on a case-by-case basis and a one-off arrangement only. I believe that there are some exceptions to fencing responsibilities.

The Hon. D.W. Ridgway: Like what?

The Hon. G.E. GAGO: I do not have those in front of me at the moment, but I am happy to bring them into the chamber. They would go to matters such as the park itself wanting to fence or contain in some way parts of the park. The national park would then provide fencing to that particular area. I am happy to bring any of those other details into the chamber. I have been informed that the thrust of the policy for some time has been that, generally, the property owner is 100 per cent responsible and that, over the years, exceptions have been made to this arrangement.

The Hon. D.W. RIDGWAY: As a supplementary question, the officer in Naracoorte advised the real estate agent that there was a proposal to cut the funding. Will the minister explain why this officer would make this statement if the policy has not been in place for some time?

The Hon. G.E. GAGO: Obviously, I cannot speak for other people. However, our policy currently does not require the department generally to contribute to fencing. I doubt that there would be a budget for that and therefore I doubt that it could be cut. It is a bit of a moot point, but I am quite happy to check those details and, if they are anything other than what I have reported here in this chamber, I am happy to bring those details back to the chamber.

PETROLEUM INDUSTRY, LAND ACCESS AGREEMENT

The Hon. J. GAZZOLA: I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about a milestone land access agreement for South Australia's petroleum industry.

Leave granted.

The Hon. J. GAZZOLA: Many members would be aware that a significant native title milestone was reached last Friday with the signing of the Conjunctive Petroleum Indigenous Land Use Agreement, which covers much of the Cooper Basin. The agreement is a first for South Australia and is Australia's first such agreement covering a proven petroleum producing region. Will the minister provide details of the agreement?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): I thank the honourable member for his question, and I note his continuing interest in both the state's resources industry and the protection of native title rights for our indigenous communities. Last Friday I was joined by my colleague the Attorney-General in signing a very important document for the future of petroleum exploration and production in this state and the future of the native title rights of South Australia's indigenous communities.

The Conjunctive Petroleum Indigenous Land Use Agreement represents an evolutionary step in streamlining the processes that enable the granting of licences for petroleum exploration and production while also protecting the rights that flow from native title. The agreement was also signed by the South Australian Chamber of Mines and Energy—on behalf of the petroleum industry-and the Yandruwandha and Yawarrawarrka people of the state's Far North-East. It represents many hours of constructive negotiations between all the parties under the auspices of the state government, the Aboriginal Legal Rights Movement and the Chamber of Mines and Energy.

Everyone involved in the process deserves congratulations, particularly the Yandruwandha and Yawarrawarrka people and their legal counsel, the ALRM and its legal

counsel, representatives of the petroleum exploration and production companies and the chamber. Staff from the Crown Solicitor's Office. The Native Title Section of the Attorney-General's Department and PIRSA's petroleum and geothermal group should also be commended for their hard work and their commitment to this agreement. The agreement is an excellent outcome that manifests trust in the processes that protect native title while enabling upstream petroleum operations in South Australia.

There is no doubt that South Australia is setting the national pace with this important agreement. The goodwill established since the implementation of native title land access agreements in this state in 2001 has been an excellent foundation for petroleum exploration and production in South Australia. Negotiations aimed at reaching further conjunctive Indigenous Land Use agreements in South Australia are progressing, and I look forward to further positive outcomes.

Also last week I was delighted to make my first visit to Oak Valley in the Maralinga Tjarutja lands. I appreciate the Maralinga Council's support for my visit and the opportunity to meet council members and other community leaders, to tour the community and to discuss a broad range of mining and resources-related issues with community members. The community barbecue, in particular, proved to be a great opportunity to meet many community members and, most importantly, to hear what they had to say.

Land access agreements with companies applying for exploration licences are a key issue for the Maralinga Tjarutja people—and, indeed, for the companies wanting to explore this region of our state for minerals and petroleum resources. Whilst the government is not directly a party to such land access agreements, it can help to foster the negotiations so that fair and sustainable outcomes are achieved, and companies seeking to explore must have land access agreements in place before mineral or petroleum licences are granted. It is interesting to note that, at present, 58 applications for exploration licences have been lodged by 11 separate companies on the Maralinga Tjarutja lands (which, I believe, comprise about 20 per cent of the state's lands).

As part of my discussions with the community leaders at Oak Valley, I offered my endorsement of a memorandum of understanding between the Maralinga Tjarutja people and PIRSA's Minerals and Energy Resources Division. The aim of such an MOU would be to facilitate expeditious land access negotiations, and I am pleased that the community is now considering my proposal. I look forward to future visits to Oak Valley and future successful land access agreement negotiations.

The Hon. R.D. LAWSON: Sir, I have a supplementary question. Given the reported criticism of the respected Aboriginal leader, Mr Parry Agius, last week, that future indigenous land use agreements are in jeopardy because of the failure of this government to maintain funding to the Native Title Unit, what action does the government propose to take to ensure that those resources are not cut?

The Hon. P. HOLLOWAY: Mr Parry Agius sat next to me during the signing of these agreements and was also interviewed by the media after the event. Mr Agius was very complimentary of the role that had been played in relation to the negotiation of these agreements. However, the point needs to be made that, as we are moving towards these template agreements, once that has been done (and years of work have been put into this), the amount of financial commitment necessary to developing such agreements should be reduced, because we now have these template agreements. That is the important thing. With all the investment we have had, once we have these agreements—which set the pace not only for this state but also, I believe, for other parts of the country—it should mean that fewer resources are required.

Also, in relation to resources, in the past, financial support has been given to some of these negotiations through the commonwealth government. That is a separate issue in relation to what is happening with that funding, but this state has been very supportive of those agreements. However, now that we have these templates, we hope that the resources that would be necessary will be reduced. That is the whole purpose: there is no point in developing template agreements if they do not become templates.

CHILD CARE, DRUG-USING MOTHERS

The Hon. A.M. BRESSINGTON: I seek leave to make a brief explanation before asking the Minister for Mental Health and Substance Abuse a question about child care assistance for drug-using mothers.

Leave granted.

The Hon. A.M. BRESSINGTON: On 3 May 2006, I asked the minister a question relating to assistance for single mothers to access services that would allow the family to stay together while the mother rehabilitates from substance abuse. The minister responded on that day by saying that the Woolshed was undergoing an evaluation that supported those outcomes—that is, assisting young mothers to get off drugs and not fear losing their children to the welfare system. Seven months later, the minister incorporated in *Hansard* without reading it an answer to that question, in which she mentioned a number of services that could be accessed to assist drug-using mothers.

I subsequently passed on those details to a number of young mothers with children, and they rang around to try to find somewhere to place their children for 2½ days a week to attend a drug rehabilitation facility as an outpatient. They rang Family Matters SA and were greeted with a phone message stating that the service was not in their area or was unreachable by mobile phone. They rang Anglicare family services, who referred them to the northern office, where they were advised that they only provide foster care service for children without homes. They rang Families SA and were referred to the family day care centre, which is a paying service and which has a waiting list. They rang the Wesley Uniting Mission in Bowden and were advised that they had child care in Torrensville, the city and Athol Park, but this was of little use to these persons who live in the north. They rang the Port Adelaide office of the Uniting Mission and were referred right back to Bowden.

At the end of the day—and after a long string of telephone calls—these people (16 children and six drug-using mothers are involved) could not access any service that would assist with the care of their children to allow access to and attendance at a drug treatment rehabilitation facility. After what has been in the paper about Families SA, substance abuse and child abuse, we think that this would be vital. My questions are:

1. Who advised the minister that these child-care services were in place to assist drug-using mothers?

2. Will the minister undertake to develop a pilot program for drug-using mothers, where they have the ability to choose a treatment program that suits their needs and have their children in care to allow them to attend?

3. Will the minister concede that services for this target group of drug users is limited, if not non-existent?

4. Can the minister confirm whether or not this matter has been investigated since the question asked in March last year; if not, why not?

The Hon. G.E. GAGO (Minister for Mental Health and Substance Abuse): I thank the honourable member for her questions. Indeed, this is an area of great complexity and need. It is a very sad situation that many women and families find themselves in when they are suffering from an addiction or substance abuse and also have children, particularly small dependent children, and are trying to get their lives back in order. I am informed by Drug and Alcohol Services SA that the sorts of services that are available include Anglicare family services, in conjunction with Families SA, which can organise respite for short-term foster care—

The Hon. A.M. Bressington interjecting:

The PRESIDENT: Order! The honourable member might want to listen to the answer.

The Hon. G.E. GAGO: —for children of parents seeking drug rehabilitation. It is understood that Families SA considers a parent seeking rehabilitation to be a positive step and is therefore supportive of providing these services without consequences. Family Matters SA, a government-funded organisation, refers clients to Anglicare. I am also informed that DASSA's facility, the Woolshed, is a residential therapeutic community and allows for one parent at a time to undertake rehabilitation at the Woolshed. Children may visit and stay with the parent over the weekend, from Friday night until Sunday afternoon. If a child protection order is in place, visitation can be provided only with the consent and involvement of Families SA.

I am informed that, often for safety reasons, young children are required to be placed in day care facilities when parents are accessing DASSA in-patient and outpatient services, apart from allowing nursing mothers to access facilities with their babies. In these circumstances, DASSA provides information to clients on specific 24-hour day care facilities located in the Adelaide metropolitan area that are willing to offer a discount, if that is required. I am also informed that DASSA facilitates appointments around the needs of parents. For example, appointments can be scheduled during school hours or outside school holidays when clients have child-care arrangements available. DASSA also provides staff supervision of clients' children on an ad hoc basis, should they attend an appointment with their children, as well as child friendly environments.

That is an outline of some of the services that are available. As I have said, it is a very serious and complex situation, where mothers are trying to find available services. If the member has specific details she would like investigated, I would be happy to receive those details in order to investigate them. My office has not received from the Hon. Ann Bressington any specific information about individuals. I reiterate that I have not received any information about a specific individual from the Hon. Ann Bressington in the past. If she has details about individuals who are in dire straits, I invite and encourage her to do something constructive with that information by passing it on to either my office or to Drug & Alcohol Services South Australia. We are not perfect, but we attempt at all times to provide the best quality services we possibly can within the realms of what is often very serious and complex family situations. I invite the honourable member to provide us with those details.

The Hon. A.M. BRESSINGTON: I have a supplementary question. Why has the minister not contacted my office about this matter? I raised this matter 12 months ago, so why has she not contacted me, knowing that the problem exists?

The Hon. G.E. GAGO: I know the Hon. Ann Bressington is fairly new to this chamber and fairly inexperienced—

The Hon. A.M. Bressington interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: —but I draw to her attention, if she cares to listen—

The Hon. A.M. Bressington interjecting:

The Hon. G.E. GAGO: She obviously has a lot of trouble listening to the answer.

The Hon. A.M. Bressington interjecting:

The PRESIDENT: Order! The Hon. Ms Bressington will come to order and listen to the minister's answer in silence; she might learn something.

The Hon. G.E. GAGO: The answer to the question is that the Hon. Ann Bressington did ask that question without notice in this chamber, and I have forwarded to the honourable member an answer to that question. She has quoted from the answer I provided to her, so I have responded to her question in terms of the details she requested. She did not ask me to follow up specific individual cases. In fact, she gave me no individual details at the time—

The Hon. A.M. Bressington interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: I have provided answers to the questions she asked me in this chamber, and I have answered the question again today. If she has further details, I again invite her to pass them on to me.

Members interjecting:

The PRESIDENT: Order! I remind all members that they are elected to this place to represent their constituents—and that includes the Hon. Ms Bressington.

The Hon. D.G.E. HOOD: Will the minister commit to accessing the details from the Hon. Ms Bressington and intervening in the specific cases in order to address these specific situations?

The Hon. G.E. GAGO: I have already answered that question.

PSEUDOEPHEDRINE SALES

The Hon. D.G.E. HOOD: I seek leave to make a brief explanation before asking the Minister for Mental Health and Substance Abuse a question about the logging of pseudoephedrine sales in South Australia.

Leave granted.

The Hon. D.G.E. HOOD: As has recently been discussed in this place, the methamphetamine precursor drug pseudoephedrine is found in many cold and flu tablets. These tablets then become a regular target of so-called drug cooks, either by way of theft or, as is often the case, legal purchases from pharmacies. A new report from the Missouri State Highway Patrol has shown an almost 45 per cent decrease in meth labs after they set up a system that logged all purchases of pseudoephedrine tablets.

The system alerts pharmacists if a purchaser has attended several other chemists to buy tablets within a short period. The Queensland Pharmacy Guild and some other pharmacies in that state (comprising some 85 per cent of Queensland pharmacies) have something similar to the Missouri project called 'Project Stop', which is an online realtime logging

system which has already resulted in 34 arrests in Queensland and also a 25 per cent reduction in the number of discovered meth labs in the past 12 months (according to our discussions with Queensland Drug Squad Detective Superintendent Brian Wilkins).

I understand that in South Australia currently we only have a written log kept of pseudoephedrine sales, which is sometimes only processed months after the purchase event. We understand that the National Precursor Diversion Group has suggested some steps to have the Queensland realtime logging system rolled out in South Australian Guild pharmacies to reduce the manufacture and abuse of methamphetamine. My questions are:

1. When will we have an online logging system (similar to that in Queensland) in South Australia?

2. If the system is rolled out here, will the minister ensure that all pharmacies must log sales and not just guild pharmacies?

3. Given that some alternatives to pseudoephedrine based drugs now exist, would the minister advocate for making pseudoephedrine a schedule 4 drug so that people who require it can obtain it only with a prescription?

4. What other measures has the minister, as the Minister for Substance Abuse, put in place to reduce the manufacture and abuse of methamphetamines in South Australia?

The Hon. G.E. GAGO (Minister for Mental Health and Substance Abuse): Currently, I understand that pseudoephedrine is required to be stored behind the counter in chemists. The purchaser is required to give their name and address, which is logged by the pharmacist at the time of purchase and that list is made available to Drug & Alcohol Services South Australia and I also understand to SAPOL as necessary. We already have in place an extensive database that can pick up abusers or excessive purchasers of pseudoephedrine. We have also undertaken quite extensive discussions with pharmacists around South Australia looking at these problems and others and looking at a range of strategies but, to date, there has been no definitive consensus.

In relation to, for instance, making pseudoephedrine a schedule 4 medication, there are arguments both for and against. It certainly does make it more difficult to purchase these particular drugs, but it has also been pointed out to us that it is a very common drug not only for cold and flu preparations but also for those unfortunate sufferers of hay fever. It is considered by some to be overly cumbersome and expensive to require a person to visit a GP to obtain a prescription which they then fill at a chemist. We have listened to those sorts of arguments. I am aware of the Queensland system: it is a very comprehensive system and it requires the full cooperation of pharmacists. A system such as that will be effective only if we have the full cooperation of everyone. It is also an extremely expensive system and, of course, the costs of those sorts of things are inevitably passed on to consumers.

The Hon. D.G.E. HOOD: I have a supplementary question. Will the minister consider adding photo identification to the requirements of the current logging system in South Australia which requires the giving of the purchaser's name and address?

The Hon. G.E. GAGO: I am happy to consider that. Obviously we would need to discuss that option with the pharmacies because, after all, the pharmacist would be the one required to obtain that extra piece of information. As I said, we are in fairly regular discussions and negotiations with pharmacists, so I am happy to have this matter raised in that forum.

KANGAROO ISLAND, DAMS

The Hon. CAROLINE SCHAEFER: My question is addressed to the Minister for Environment and Conservation on the subject of water conservation. What has the minister done to curtail the inappropriate actions of the Native Vegetation Council and departmental officers who have ordered farmers on Kangaroo Island to cut dam banks on their properties, at a time when the island is suffering from probably its worst drought ever, simply because they did not seek the correct permission?

The Hon. G.E. GAGO (Minister for Environment and Conservation): I thank the honourable member for her question which I think relates to a situation on Kangaroo Island. I am informed that currently there is less than 20 per cent of native vegetation remaining in South Australia's agricultural areas—in some regions, less than 10 per cent. The Native Vegetation Act regulations provide a framework to control vegetation clearance across the state that balances environmental, social and economic needs. Generally, there is widespread acceptance from the scientific community and stakeholders that clearance of native vegetation has been a major contributor to biodiversity decline. These are all important elements to consider as a backdrop to this matter.

Under the Native Vegetation Act the council is required to review conditions of native vegetation in the state and investigate any possible breaches. The council has introduced a program that involves the use of satellite imagery to detect changes in the coverage and quality of native vegetation. I believe the honourable member is possibly referring to the Great Southern Plantations dam. I make that presumption because she is not giving me any indication at all as to whether that is so. It is a bit difficult—

The Hon. Caroline Schaefer interjecting:

The Hon. G.E. GAGO: Well, in relation to any breach in terms of native vegetation the act is quite clear. Breaches are followed up and, where necessary, prosecuted under the act. If dams are built illegally, then the Native Vegetation Council has not only a requirement but an obligation under the act to investigate and pursue those breaches. That is the bottom line: if they have breached the act in terms of native vegetation then they are held to the full force of the law.

The Hon. CAROLINE SCHAEFER: Is the minister prepared to show some flexibility at a time when the state is suffering from one of its worst droughts ever?

The Hon. G.E. GAGO: The Native Vegetation Council always treats each case with a great deal of sensitivity, particularly in relation to any remediation or action that is required where it detects a breach of legislation. It is usually very sensible and sensitive to the circumstances by putting in place a sensible time frame for the appropriate action to be taken. I am quite confident that the Native Vegetation Council would, in this case, do the same. It has certainly not been reported to me that there has been any loss of water due to the Native Vegetation Council's investigations.

The Hon. CAROLINE SCHAEFER: Does the minister concede that, in a high rainfall area such as Kangaroo Island, lack of water will damage the environment, the economy and the ecosystem far more than the removal of small amounts of native vegetation for water conservation purposes?

The Hon. G.E. GAGO: I have already answered the thrust of this question. There is legislation in place that outlines requirements around the clearance of native vegetation. Those are the laws of the land, laws that were passed in this very chamber, and I am quite confident that the honourable member was sitting in this chamber when that legislation was passed. It is the law of the land, and it would be irresponsible for any member of parliament—or any citizen, for that matter—to support someone breaking that law. What I have said is that I support a sensible and sensitive application of the law.

EYRE PENINSULA BUSHFIRES

The Hon. R.P. WORTLEY: I seek leave to make a brief explanation before asking the Minister for Correctional Services a question regarding the government's commitment to Eyre Peninsula through the continuation of funding for bushfire rehabilitation by prisoners from Port Lincoln Prison.

Leave granted.

The Hon. R.P. WORTLEY: In February 2005 the minister's predecessor, the late Hon. Terry Roberts MLC, informed members of the work being done by prisoners from Port Lincoln Prison. It is now some time since the fires which devastated the area around Port Lincoln. Shortly after the fires, prisoners from Port Lincoln Prison played a significant part in the cleaning up and restoration of areas affected by the fires. Can the minister advise the chamber what is being done to assist the local community?

The Hon. CARMEL ZOLLO (Minister for Correctional Services): I would like to thank the honourable member for his very important question. The Premier (Hon. Mike Rann) recently announced funding of an additional $60 000 for bushfire recovery efforts by prisoners under the supervision and leadership of staff from Port Lincoln Prison. A team of five prisoners is still going out five days a week with a Department for Correctional Services supervisor and continuing to remove burnt trees and repair fire-damaged fences.

I inspected some of their efforts last week and, from all the reports I have been given, the prisoners are doing a remarkable job. To date, they have repaired more than 200 kilometres of fencing, cut down and removed fire-damaged trees, repaired fire-damaged farm sheds and stockyards, landscaped, and planted trees to replace those destroyed. They have even assisted some farmers with tail-docking and livestock activities when, because of ill health or other reasons associated with the fires, the farmers have been unable to manage this themselves.

From the outset, prisoner support for the program was overwhelming. Prisoners who may once have had little regard for community property and the community in general are now working together to help restore a community devastated by fire. In turn, their work has been welcomed by the Eyre Peninsula community. There have been many messages of appreciation and support, and the prisoners have achieved a great deal of personal satisfaction from the work they have undertaken.

The community service program was initially scheduled to end on 30 June 2006; however, this government recognised that work remained to be done and continued the funding. Port Lincoln Prison has a register of requests from the community for essential work still to be undertaken. It is estimated that this work will take a number of months to complete, with all jobs to be finalised by the end of June 2007. All in all, this is a marvellous achievement by staff of the Port Lincoln Prison who have managed the support operation. My thanks go to all prison staff and to the prisoners who have participated in this program. My thanks also go to the Port Lincoln Rotary Club, which has provided funding for the equipment and vehicles that the prisoners use; the government is truly grateful for its support.

Thus far this program has cost $265 000. Last week at community cabinet I was very pleased to have the opportunity to visit some of the farmers who have been assisted by the prison work program, and I know how truly grateful they are. Again, I thank the community for supporting the Port Lincoln Prison.

LAKE BONNEY

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Minister for Environment and Conservation a question about species in Lake Bonney.

Leave granted.

The Hon. SANDRA KANCK: On Thursday 8 February a ministerial statement was made to the House of Assembly by the Minister for Agriculture, Food and Fisheries on behalf of his colleague the Minister for the River Murray. In relation to Lake Bonney, it states that 'recent scientific surveys of the lake have not found any threatened, rare or endangered species'. My questions are:

1. Were these surveys carried out by officers of the minister's department? If not, will the minister advise who did carry out these surveys, when they were carried out and their scientific validity, and will she make them publicly available?
2. Does the minister believe that the surveys referred to by her colleague the Minister for the River Murray are correct in that Lake Bonney does not contain the broad-shelled turtle and the Murray cod? If so, will she be advising researchers from the University of Canberra that we know better than them and that their research with the turtle is purely imaginary?
3. If the minister does not agree with her colleague as to the existence of threatened, rare or endangered species in Lake Bonney, will she appraise the Minister for the River Murray of the evidence to the contrary?
4. What status does South Australia assign to the broad-shelled turtle and the Murray cod?
5. Will the minister be seeking an exemption from the federal government under the EPBC act to allow the damming of Lake Bonney, just as she has done in regard to the Wellington weir?

The Hon. G.E. GAGO (Minister for Environment and Conservation): I am not aware of the surveys to which the honourable member is referring, but I am happy to obtain information about who conducted the surveys and what information was contained within them, and to bring back a response. The honourable member asked a number of questions following her explanation. Again, I am happy to take those questions on notice and bring back an informed response.

The PRESIDENT: The reason we are getting only nine or 10 questions is the number of supplementary questions being asked. There have been 11 supplementary questions today, nine of which were asked by the opposition. Government members asked only two questions today. There are six Independents or other party members in the council. In order

to allow them all to ask questions, perhaps it would be advisable for members to shorten their supplementary questions or get it right in the first question.

REPLY TO QUESTION

AUDITOR GENERAL'S REPORT

In reply to **Hon. M. PARNELL** (15 November 2006).

The Hon. P. HOLLOWAY: The Minister for Consumer Affairs has provided the following information:

1. The bonds lodged and described as a current liability are bonds that have been held in the Residential Tenancies Fund for less than twelve months. Bonds lodged and described as a non-current liability have been held in the Fund for more than twelve months.

2. The rate of interest paid to tenants is 0.1 per cent per annum, an amount based on that paid on deposits in Commonwealth Bank Keycard accounts with a balance of less than $5 000. The amount of interest paid to tenants was $48 908 in the year ending 30 June 2006.

3. The difference between earnings on tenants' bond moneys invested and that paid in interest to tenants is used to meet the cost of the administration of the Act, including the operation of the Residential Tenancies Tribunal. The amount of profit (or surplus) held in the Fund fluctuates each year, depending on the earnings on investments of tenants bond moneys and the cost of administering the Residential Tenancies Act. The surplus held in the Fund was $6 025 000 at 30 June 2006.

CRIMINAL LAW (FORENSIC PROCEDURES) BILL

Adjourned debate on second reading.

(Continued from 7 February. Page 1406.)

The Hon. R.D. LAWSON: I rise to indicate that Liberal members will be supporting the second reading of this bill. We support the use of DNA technology for the identification and apprehension of offenders. We recognise the tremendous advances that have been made in the use of DNA and applaud our police and forensic scientists for their skills and professionalism in the use of these new techniques. The fact that many offenders have been brought to book as a consequence of police using these new forensic procedures is a great result for the community.

The Liberal Party has been at the forefront of supporting measures to facilitate the use of DNA. Notwithstanding the fact that this government has from time to time issued releases and made statements over the air waves and elsewhere claiming that DNA innovation is a result of its activity, the fact is that it was under the previous Liberal government that initial legislation was introduced and the road to DNA testing was laid.

One sees the hubris of this government in its second reading explanation in support of this measure in which we see statements such as 'the government changed the law' and 'this government changed the law'. Actually, it is the parliament that changes the law in this state; and, from time to time, one hears the Attorney-General saying, 'I changed the law on this'—again, an endeavour to rewrite history and suggest that this government and this government alone is responsible for initiatives, which I ought add have already taken place in other comparable jurisdictions. Also, the second reading explanation states:

> Since the election, the Commissioner of Police has put a submission to government arguing for amendments to simplify and clarify the operation of the act.

'Since the election, the Commissioner of Police has put a submission to government' is what the second reading explanation states. The facts are that the Commissioner of Police has been asking for amendments to this legislation for some considerable time. For example, on 1 December 2005 the Commissioner was interviewed on Radio 891 and, during the course of that interview, he said:

> The DNA legislation has caused us an enormous amount of frustration and angst because it is extremely complicated.

David Bevan then asked:

> Do you think that the DNA legislation needs to be streamlined or simplified?

The Commissioner responded:

> There's absolutely no doubt in the world in respect of that, and we've made requests to the Attorney-General's office to change a whole raft of things. It's the most complicated piece of legislation I have had anything to do with.

So, here we have the Commissioner of Police in December 2005 making public that he had already approached the Attorney-General's office about making these amendments. However, in February 2007 in this place we have the government saying, 'Since the election, the Commissioner of Police has put a submission arguing for amendments.' The fact is that, in relation to these matters, this government has been dragging its feet.

I think it is worth reminding ourselves what the President of the Police Association, Mr Peter Alexander, said in an editorial item appearing in the *Police Journal* of August last year. Mr Alexander made perfectly plain the frustration South Australia Police were having dealing with earlier legislation. I might add that that was introduced as a second raft of DNA legislation by this current government—certainly, with the support of the Liberal opposition. I do not blame this or any other government for introducing new legislation or refining the legislation in relation to DNA because, at this moment, we are simply developing the techniques and procedures necessary to most effectively use DNA technology and other forensic procedures in the justice system. In his editorial, Mr Alexander said:

> The introduction of South Australia's DNA legislation has helped clear up both recent and historic serious crimes. Clearly, DNA analysis stands as the most significant advantage in criminal investigation work since the introduction of fingerprinting more than 100 years ago. The recent Dean case in the District Court highlighted the need for immediate legislative change to ensure that South Australia has workable and efficient DNA legislation.
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> The current situation, which involves a 'use by' date for DNA samples, must undergo change. Mandatory destruction requirements contained in the Criminal Law (Forensic Procedures) Act 1998—relative to DNA profiles obtained in forensic procedures are surely not in the public interest.
>
> Now, offenders can avoid conviction because of the onus on police to destroy DNA samples that link them [offenders] to crime scenes. This came about because parliament determined that, in some circumstances, samples had to be destroyed by a predetermined date. And extraordinarily, the legislation provides penal consequences for police if they intentionally or recklessly retain information on the database beyond the time of the scheduled destruction of the material. Any suspect's rights and liberties are of course important, but these provisions are ludicrous. And I am sure I echo the view of the general community in this regard.

Mr Alexander continued as follows:

SAPOL is compelled, as a consequence of these legislative requirements, to provide extensive resources to determine if DNA specimens and profiles need to be destroyed in line with the destruction provisions of the act. It has been suggested that the time required to clear the backlog of samples for destruction is 52 000 person hours. This is a situation of pure farce, and the government must act quickly to address it. It is one thing to enshrine in legislation appropriate criteria for police to obtain a suspect's forensic material for DNA analysis. It is quite another to require police to destroy a lawfully obtained DNA sample, even in consideration of civil liberties. This requirement is in the interests of neither the public nor crime victims. One can find far too much history of criminals beating the system because of poor legislation; and our current DNA laws will undoubtedly result in more acquittals on technical grounds.

Mr Alexander very clearly laid before the community and the government (which, of course, already knew of these concerns) the fact that changes were necessary.

We on this side of the council do not believe that we should throw out the baby with the bath water. It is undoubtedly true that there ought be appropriate protections in forensic procedures legislation to ensure that the innocent are protected and that the civil liberties of Australian citizens, which we greatly treasure, are not unduly adversely affected by legislation of this kind. There is always a balancing act, and this bill seeks to appropriately balance, on the one hand, the interests of the community by ensuring that the guilty are apprehended and brought to justice with, on the other hand, the necessity not to unduly interfere with the rights of law-abiding citizens.

This legislation introduces what might be loosely termed a retention regime for DNA profiles and other forensic procedures. We support the extension of the types of offences in respect of which forensic samples may be taken under this legislation. Indeed, when this government brought in its amendments—in, I believe, 2002—we advocated for a wider net. We advocated a model very similar to the one that is now being introduced. Of course, at that stage the government said, 'No; we are certain it cannot be done because of cost considerations.' It is a bit like our proposal to extend the bail laws. When we made that proposal, the government said, 'We can't possibly afford it. It is out of the question; it is irresponsible. Where are you going to get the money from?'

Now, because of a tragedy in the community and because of some political heat and public pressure being applied, the government suddenly says, 'Well, we can actually find ways to do these things.' We find that it is precisely the same in relation to forensic procedures. On the previous occasion, we suggested that the offences be extended. The government did extend them to include certain summary offences, but it would not go anywhere near provisions similar to those in the United Kingdom, which allows a vastly expanded range of offences to permit police to take DNA samples.

There have been some hitches in relation to the procedures that have been adopted in South Australia. One I ought mention in passing was mentioned also by the Police Association, namely, the decision of Judge Marie Shaw. Her honour held that certain DNA samples had been retained without authorisation under the act. It is unnecessary to go into the facts of the case; suffice it to say that it was a highly technical decision, one that did not, in my view, adversely reflect upon either the Commissioner or the police officers who were endeavouring to comply with legislation. The fact is that those officers believed that a certain person was a suspect but, because of the dropping of charges, the person's DNA should have been destroyed under the existing regime. The consequence was that the police, who had perfectly good evidence in relation to a particular offence, found that those charges had to be dropped.

I think that decision highlights two things: first, the requirement for police to comply strictly with the law—and that is something we would uphold—and, secondly, it highlights the fact that the law itself was unnecessarily technical and difficult to apply. We in the Liberal Party—and, I think, other members of parliament—have had briefings from police in relation to the complexities which the existing regime introduced and which made it very difficult for police operationally to ensure that this legislation operated in the way in which everyone desired.

One of the issues that arises in relation to the expanded offences that will enliven the DNA provisions is the fact that this means that criminal offences which carry terms of imprisonment will also allow police to take DNA samples. I ask the minister to indicate in his response whether that range of offences will include not only what one might term, strictly speaking, criminal offences (namely, those under the Summary Offences Act and also the Criminal Law Consolidation Act) but also what might be termed regulatory offences. Of course, there are offences in the Road Traffic Act that attract penalties of imprisonment. My question is: will this legislation extend to enliven the forensic procedures provisions in relation to those regulatory offences that carry a term of imprisonment and will it also enliven those offences for which imprisonment is a penalty for a second or subsequent offence?

When one thinks of regulatory offences one thinks also of offences under environmental legislation that can involve imprisonment. Of course, there are offences (and I assume they are included under the Controlled Substances Act) and also a range of fishing and other offences that can possibly lead to imprisonment. Will persons suspected of those offences be required to submit a DNA sample, and can it be retained under the new retention model?

Two significant reports have highlighted difficulties in our DNA legislation, one being from the Kapunda Road royal commission. The commissioner, Mr James QC, certainly recommended that there be changes to this legislation to simplify its operation, because the evidence before that commission had highlighted the fact that the police themselves were not clear in their understanding of its provisions. Of course, the Auditor-General also passed comment on aspects of the administration of this act in a special report tabled in this place in November 2006.

The Auditor's report really arose out of the decision of Judge Shaw to which I referred earlier, namely, her ruling in the Queen v Dean of 25 May 2006. However, I want to emphasise that well before that decision the Police Commissioner had highlighted the need for amending legislation. I do not think it is necessary to go into the report of the Auditor-General in any great detail. I think one detects in that report an apparent desire of the Auditor-General, for some reason or other, to pursue the Office of the Director of Public Prosecutions.

It is perhaps unfortunate that that appears to be the flavour of much of the Auditor-General's Report. I do not know that it is really necessary for this parliament to seek to resolve that conundrum, but the point is that the arguments that occur between the Auditor-General, on the one hand, and the Office of the Director of Public Prosecutions on the other will be eliminated or reduced by this bill.

I will mention a number of issues that have been raised by the Victim Support Service. They are important issues that

deserve to be put on the public record. The Victim Support Service, which one would quite reasonably expect would be interested in tightening measures to ensure that offenders are apprehended and that the rights of victims are sustained and upheld, has made a measured response—and I imagine similar communication has been sent to other members. The Chief Executive of that service, Michael Dawson, writes as follows in relation to the concerns his service has. First, he is concerned about the fact that his organisation was given insufficient time to comment on this bill, but he identifies a number of key issues which I place on the record and which I do ask that the minister address in his response. The first is no special category of victim. He writes:

> First and foremost we have grave concerns about the constant confusion with the focus of the legislation—it seems to have been written with no recognition of crime victims as a separate and unique category of 'volunteer'. We feel that it would be far better to have separate sections within the legislation identifying and specifying the processes and rights of victims which will frequently be different. The current act does prescribe a victim as a separate category and it is puzzling to understand why this has been removed. In this climate of moving towards strengthening of victims' rights it is a backward step to presume that they can be lumped with a general category of 'volunteer' which obviously refers primarily to the police objective of catching offenders—but this should be done in the context of protecting victims' rights also—this should not be left to chance and the goodwill of officers involved.

I would ask the minister to place on the public record the government's response to that very real concern. Secondly, Mr Dawson writes in relation to the retention of DNA taken from victims who volunteer it and states:

> We believe this is vital because as it stands at the moment in the bill, victim DNA which has been volunteered will be able to be kept on file indefinitely—this could be a deterrent to victims offering their DNA and therefore will effectively reduce the quality of evidence able to be gathered, risk the case being proceeded with, and reduce reporting once victims are advised that their DNA could/will be retained. We are trying to find ways to increase victim reported crime, especially sexual assault, not reduce it even further below the current 15 per cent reporting. This would be a disastrous outcome. There does not appear to be a procedure or recognition that DNA should be destroyed at a volunteer or victim's request, or the question even asked.
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> Many victims do (especially at key stages in the process after a crime) often have a distrust and an axe to grind about treatment, or success, by Police and this may compound their willingness to believe that their DNA will be treated according to their wishes and put them off agreeing to provide it unless there is the clear guaranteed option to have it destroyed—it should be their right to have their DNA destroyed.
>
> If DNA is collected for an exclusionary purpose, then it could be argued that it should not be used for any other purpose.

Again I seek the minister's response to that. Thirdly, Mr Dawson mentions police powers, and he writes:

> We are concerned about the amount of decision-making and control of the processes and decisions maintained by Police in the Bill—we believe it is vital to retain an external arbiter in decisions involving 16-18 year olds as well as those not determined 'competent' to make decisions—we prefer to see the need for a Magistrate and/or Public Advocate to be retained as we believe that the Police could too often be in a difficult situation in which they have a conflict of interest. It would be much more transparent and safer to have an external gate-keeper. Police would be better protected if there was a process involving an external person. It has been announced that a 'brochure' will be produced to explain processes and victims' rights—this is a good idea but does not go far enough. There should be assurances within the legislation itself, leaving nothing to chance.

Whilst I have indicated that we support the new measures relating to the retention of DNA, I should also mention that we support the changes to the approval mechanism by which officers will obtain the necessary authorisation to conduct forensic procedures, which will now be done by a senior police officer rather than, in certain cases, a magistrate. What Mr Dawson seems to be concerned about is specifically in relation to the taking of DNA samples from those who are between the ages of 16 and 18. I ask the minister to indicate whether or not the government gave consideration to the policy issues here raised by Mr Dawson and, if so, why they did not take them up.

Fourthly, Mr Dawson says there are a number of medical practice issues, and he writes as follows:

> There are a number of references to the processes to be undertaken/required by Medical Practitioners which during my consultation with specialist Forensic Medical practitioners they have advised, are beyond the bounds of 'normal medical practice'—this may well cause both evidentiary problems as well as reduce victim-participation. Doctors are also highly likely to have professional ethics issues of undertaking procedures with or without direct patient permission—these need to be clarified in a range of circumstances. Of particular worry is the option to gain consent of closest available next of kin will give enable police [to] shop around the family until they find a next of kin who consents to a forensic procedure. This (hopefully) would be unlikely, but unacceptable and should be prevented in the principles and detail of legislation.
>
> We have some concern that there is a potential for Doctors to be pressured or drawn between the desires of their client and the police—who may have competing agendas. Again this may not occur but the legislation to ensure it cannot happen. There needs to be an independent arbitrator—someone who does not have a conflict of interest and to protect the interests of the victim. Doctors who are willing to undertake Forensic Medical Procedures are rare enough now and unless these issues are sorted out, it is likely Doctors will refuse to participate and set us back decades.

Whilst I do not necessarily agree with a number of the comments and predictions made by Mr Dawson on that particular point, I would be pleased if the minister would indicate whether the government gave consideration to these questions and why it is that, in Mr Dawson's view, they were not appropriately addressed.

Fifthly, Mr Dawson mentions audiovisual records and says:

> We are concerned about the impact of the proposal to make an audio-visual record of some aspects—it is unclear what this could entail and when; eg is it possible that a forensic medical examination might be suggested or asked to be videotaped? The impact of the question being asked a victim is nothing short of frightening. This needs to be clarified.

Once again I seek the minister's comment. Of course, it is well known that a number of forensic procedures are now the subject of audiovisual records—interrogations and the like—and we believe that is a very positive development in the criminal justice system. It has eliminated the endless time that was previously spent in allegations by accused persons of police abuse in interrogation, allegations which are easy to make and difficult to refute. We certainly welcome the fact that, under this new regime, it will not be necessary—as it now is—for the taping of, for example, a buccal swab in certain circumstances.

Finally, Mr Dawson raises the question of the age of consent and says:

> We oppose the raising of the age of consent from 16 years to 18 years. The age should remain at 16 years, which is consistent with the age of consent for medical procedures. This is a victims' rights issue, and one which doctors also point out—they cannot have different ages of consent for different procedures.

Once again, did the government consider this issue? If so, why has it not adopted what appears to be a reasonable proposition put by the Victim Support Service?

Mr Dawson would like further consultation, but the government has indicated that it wishes to have this bill

proceeded with as quickly as possible. We certainly sympathise with the government's desire to have this legislation enacted as soon as possible, and think it is lamentable that the government failed to bring it in as early as it should. However, we do not believe there is time to have what might be termed 'a leisurely consultation' on this matter.

The bill obviously affects the way in which persons charged are processed through the criminal justice system and deals with legal representation in certain places, and I would have preferred to see before the parliament (as we do so often) a detailed and comprehensive submission from legal practitioners through the Law Society. Invariably, they have a number of perspectives which are of value to consider. Once again, it is a pity that this legislation is being rushed through the parliament. We may not have an opportunity to receive the lawyers' comments on the way in which the new system will operate. There will be a number of other matters pursued in committee; however, these are the only comments I propose to make in support of the second reading of this bill.

The Hon. R.P. WORTLEY: Lab coats and microscopes are becoming the most effective police weapons available to the South Australian police force to convict criminals in this state. One does not have to be a fan of the popular crime shows taking over our wonderful free-to-air networks every night to know about the growing power and success of DNA in convicting criminals. It is over 20 years since scientists developed DNA fingerprinting—a tool which has solved countless crimes through the collection of items such as blood, hair and saliva at crime scenes.

It is important for our safety that this bill passes this council because it provides for the implementation of forensic procedures to gain evidence relevant to the investigation of a criminal offence; it makes provision for a DNA database system; it makes relevant amendments to the Child Sex Offenders Registration Act 2006 and the Summary Offences Act 1953; and it repeals the Criminal Law (Forensic Procedures) Act 1998. As we all are aware, the current act forbids the permanent retention of DNA samples when people have been found innocent or criminal charges have been withdrawn—unless a magistrate has given approval for a DNA sample not to be destroyed. Unfortunately, in the past this has caused confusion amongst members of SAPOL. With the current laws being complex and confusing, it is little wonder there have been cases such as the arrest of Antony Alan Dean early last year for armed robbery, based on a DNA sample which should have been destroyed after an assault charge was dismissed in April 2004. Instead, it was used three months later to link him to the robbery of a Bi-Lo supermarket.

In *The Advertiser* of 30 May 2006 Police Commissioner Mal Hyde is quoted as saying:

> Police accused of breaking the law had acted on legal advice and had previously raised concerns about legislation surrounding DNA and the management of the DNA database.

In the same article Mr Hyde is quoted as saying:

> The detective found to have illegally arrested the man had done so after getting legal advice from the crown.

He also went on to say:

> The Dean case serves to highlight the complexity of the rules on DNA storage, with the District Court concluding one thing and the police advice saying another; and I've never found more complex legislation the police have had to comply with.

The bill seeks to eradicate the current confusion within the act and prevent such cases recurring. The bill will allow police to take DNA samples from any suspect or offender in which the offence is punishable by imprisonment, enabling the state's DNA database to expand.

DNA—dubbed the 'modern crime fighter'—is providing police with new and often accurate leads, not just for recent cases but, increasingly, for cases long thought unsolvable. DNA tests are this century's equivalent of fingerprinting. DNA evidence not only enables police to convict criminals but also aids police to exonerate individuals of crimes. In the United States many convicted criminals have had their convictions overturned on the basis of DNA evidence. More importantly, this includes more than 100 convicted criminals on death row awaiting execution; and one can only shudder to think how many poor old souls went to their death innocent of the crimes of which they were convicted.

Technology available in the lab at Forensic Science SA is able to narrow a DNA fingerprint down to one in 72 billion. That is not bad odds when one considers that the earth's population makes up only one-twelfth of that number. However, such odds leave little wonder as to why DNA testing is one of the most important tools in law enforcement, especially when one considers the more than 100 criminals saved from death row. People may perceive this bill as a breach of privacy and overkill. However, I doubt that victims of crimes and innocent persons charged with a crime they did not commit would agree that this bill is crossing the line.

Although I agree that there is always a need to protect an individual's personal and biological information, there is also a need to enforce permanent retention of DNA samples. Only the guilty should fear the power of DNA testing, making them think twice before offending or reoffending. By expanding the database, more crimes would be solved and, hopefully, there would be a reduction in the volume of crime. I believe this bill, along with Labor's other tough on crime legislation, will close the net further on criminals.

As at 10 March 2006 the South Australian DNA database has been used to identify and charge 786 people with offences, half of whom were already in prison. The DNA database is the criminal's worst nightmare. They may have thought they were home free, having escaped charges for crimes committed in previous years. However, these criminals who have escaped being charged for violent rapes or burglary have not yet won. Together with advances in technology and legislation such as this bill, many criminal acts of the past have come back to haunt them.

The high profile murder case of Samantha-Jane O'Reilly highlights the value of DNA evidence as an investigative tool for police. The now convicted murderer Kevin Hender surrendered after being DNA tested, knowing that his DNA would match samples collected at the crime scene. Many other cases have been solved by DNA. David Peter Jarrett was snared by science when he murdered and raped 75 year old Mavis Pitt in her Pennington home. Jarrett's blood and semen were found at the crime scene. He was sentenced to 39 years in gaol. Rodney Keith Winter may have thought he got away with murder in 1982 but, thanks to DNA, Winter was charged with murder 13 years after Cheryl Trace (aged 29) was found raped and murdered at the Edinburgh air base. DNA evidence is convicting not only people charged with murder and rape but also those charged with crimes such as housebreaking, drug offences and robbery—crimes that affect people's everyday life.

The benefits of this bill far outweigh the fears of breaching people's privacy. When one looks at the reoffending criminals' figures it becomes quite clear that we need to pass

laws to enable DNA samples to be kept. A major study conducted in 2002 by police revealed that almost half the crime in South Australia was committed by a minority of offenders. The major finding in the report was that 3 265 criminals (14.2 per cent) were responsible for 28 210 offences (46.3 per cent of all crimes committed in a single year). Operation Helix was formed in 2004 to handle investigations generated by DNA matching. By 18 September 2004, detectives involved in Operation Helix had made 100 arrests covering more than 260 crimes, including rapes, robberies, housebreakings and assault offences.

Significantly, of those 100 arrests, 56 resulted from the DNA testing of prisoners. Of that number, 35 were serving prisoners and 21 were free on parole. Since Labor changed the laws in 2002 to require prisoners in South Australia to be DNA tested, every prisoner in South Australia is now on the database. So, although by law police are currently allowed to store and keep convicted offenders' DNA to target re-offenders, laws such as those in this legislation need to be in force to target new offenders. The police and victims of crime have been left frustrated long enough with the current complex laws.

We have all been made aware of the incredible ability and success of DNA testing, which is why I believe we need to provide South Australia Police with the responsible use and storage of DNA samples. We cannot allow potential criminals to walk free for a crime they committed, especially when DNA technology is so readily available.

The Hon. NICK XENOPHON: I support the second reading. I will confine my comments largely to concerns expressed by Victim Support Service Incorporated in relation to this bill. At the outset, it is fair to say that the Kapunda Road royal commission did highlight inadequacies in DNA laws, as well as their complexity and the need for simplification. However, simplifying them is paradoxically almost a complex process given the extent of this bill and the principals that are being dealt with. The Hon. Mr Wortley is correct when he says that DNA evidence has been used to catch criminals—those who have perpetrated offences, particularly serious offences—and, on a number of occasions, it could well provide a deterrent effect.

If someone knows that they appear on a DNA database, it may give them pause to reflect before offending and, certainly, I hope that is the case. I refer to a submission that I and other members received from Michael Dawson, Chief Executive of Victim Support Service Incorporated. For many years he has worked on behalf of victims advocating their concerns. It is disappointing that the Victim Support Service—a peak body in relation to victims' rights—was not involved in consultation with either the government or SAPOL during the preparation of the legislation. In its submission and on behalf of the service, Mr Dawson states:

> It is also a pity that the government's important draft legislation on new sexual assault law reform has only just been released. It should be closely linked to this legislation and consistency of approach is assured.

According to Mr Dawson that is a very valid point. Some of the key issues raised by Mr Dawson are that there is no special category of 'victim' and that, first and foremost, the Victim Support Service has grave concerns about the constant confusion with the focus of the legislation. The submission states:

> . . . it seems to have been written with no recognition of crime victims as a separate and unique category of 'volunteer'. We feel it would be far better to have separate sections within the legislation identifying and specifying the processes and rights of victims which will frequently be different. The current act does prescribe victim as a separate category and it is puzzling to understand why this has been removed. In this climate of moving towards strengthening of victims' rights, it is a backwards step to presume that they can be lumped in with the general category of 'volunteer' which obviously refers primarily to the police objective of catching offenders—but this should be done in the context of protecting victims' rights also—this should not be left to chance and the goodwill of officers involved.

My question to the government is: why is that so? Why has the government not recognised victims as a separate category? In relation to the issue of DNA, and on behalf of the Victim Support Service, Mr Dawson states:

> We believe this is vital because as it stands at the moment in the bill victim DNA which has been volunteered will be able to be kept on file indefinitely—this could be a deterrent to victims offering their DNA and therefore will effectively reduce the quality of the evidence able to be gathered, risk the case being proceeded with, and reduce reporting once victims are advised that their DNA could/will be retained. We are trying to find ways to increase victim reported crime, especially sexual assault, not reduce it even further below the current 15 per cent reporting. This would be a disastrous outcome. There does not appear to be a procedure or recognition that the DNA should be destroyed at a volunteer or victim's request, or the question even asked.

Has the government considered what I am sure is an unintended consequence on the part of the government, namely, actually discouraging victims from coming forward given the concerns expressed by the Victim Support Service? The submission further states:

> If DNA is collected for an exclusionary purpose then it could be argued that it should not be used for any other purpose.

In terms of police powers, the submission states:

> We are concerned about the amount of decision making and control of processes and decisions maintained by police in the bill—we believe that it is vital to retain an external arbiter in decisions involving 16 to 18 year-olds as well as those not determined 'competent' to make decisions—we prefer to see the need for a magistrate and/or public advocate to be retained as we believe that the police would too often be in a difficult situation in which they may have a conflict of interest. It would be much more transparent and safer to have an external gatekeeper.

Producing a brochure, as the Victim Support Service points out, is welcome but it does not enshrine those guarantees in legislation. The service also raises concerns with respect to medical practice issues where it goes beyond the bounds of normal medical practice. Its submission states:

> This may well cause evidentiary problems as well as reducing victim participation. Doctors are also likely to have professional ethics issues of undertaking procedures with or without direct patient permission. These need to be clarified in a range of circumstances. Of particular worry is the option to gain consent of closest available next of kin will enable police to shop around family until they find a next of kin who consents to a forensic procedure. This (hopefully) would be unlikely, but unacceptable and should be prevented in the principles and detail of legislation.

I would appreciate a comment from the government about how it will deal with those concerns of the Victim Support Service.

In relation to audiovisual records, the Victim Support Service also expressed concern. The letter states:

> . . . it is unclear what this could entail and when; eg is it possible that a forensic medical examination might be suggested or asked to be videoed? The impact of the question being asked of a victim is nothing short of frightening. This needs to be clarified.

If the government can clarify that matter, I hope that it will allay the concerns of the Victim Support Service. I believe there ought to be clarity as to how it would operate.

They are most of the concerns that have been raised by Michael Dawson, Chief Executive of the Victim Support Service in this state. I will attempt to file some amendments as soon as possible; hopefully, no later than tomorrow. I understand that the government wants to deal with this bill by Thursday, and I appreciate that. Clearly, a number of aspects of the bill are welcome in terms of simplifying forensic procedures, but there are also aspects that are of concern to victims. At the end of the day, the rights of victims ought to be a primary consideration, because our justice system should be very fairly and squarely focused on the rights of the victims of crime. I look forward to the government's response to my concerns, which reflect the concerns of a key victim support group in this state. I also look forward to the committee stage of this bill.

The Hon. J. GAZZOLA secured the adjournment of the debate.

FISHERIES MANAGEMENT BILL

Adjourned debate on second reading.
(Continued from 8 February. Page 1409.)

The Hon. B.V. FINNIGAN: I rise in support of this bill. The bill has had a fairly long gestation: the review of the act goes back, I believe, five years. A green paper was released in 2003, and public meetings were held across the state. Some 209 recommendations from the steering committee were considered in drafting the new legislation, and policy issues that had been raised by industry groups also were carefully considered. The government hopes that this legislation will be passed by parliament to enable its implementation by 1 July this year.

The principles at the heart of the Fisheries Management Bill are to ensure an ecologically sustainable fishing industry into the future and to manage it in a cost efficient and effective manner. The fisheries industry is a very important part of our commercial activity and it is also an activity that is enjoyed by recreational anglers and others. It is not a pastime at which I have ever been particularly adept, but it is one that many hundreds of thousands of South Australians enjoy, quite a few of whom are in the Limestone Coast area, where a lot of good fishing is to be had.

This bill attempts to allocate resources between users in a manner that achieves optimal utilisation and equitable distribution to ensure that the needs of all the various parties and groups involved in fishing—whether for a commercial or a recreational purpose—are taken into account, and to ensure that aquatic habitats are protected and preserved. Fishing resources, of course, can be fished out if proper care is not taken to ensure that they are managed effectively.

One key aspect of this bill that I wish to highlight is the establishment of the Fisheries Council. The Director of Fisheries is an ex officio member, and a number of other members were appointed by the minister. It is important to note that the membership of the council must include persons who together, in the minister's opinion, have expertise in the areas that are set out in clause 11(5) of the bill. Those areas include commercial fishing and the processing of aquatic resources, recreational fishing and a number of other items.

I think it is important to stress that the Fisheries Council will have a number of members with expertise in fisheries management across a broad range of areas to ensure that the interests of the various groups within the fishing industry are well represented and looked after. The council must prepare an annual strategic plan and provide an annual report, and the council or the minister may establish an advisory committee. There are a number of mechanisms within the bill that will ensure that the industry and the various stakeholders are well represented in the ongoing management of our fisheries.

I have been contacted by some people (in particular, people from the Limestone Coast) who are concerned about possession limits for recreational fishers which are covered by this bill. It is important to note that, under the current legislation, a commercial catch is not allowed with respect to recreational fishers, but this bill will allow more clearly defined possession limits to be set by regulation. Other states have possession limits for a number of different types of fish, and it is important that South Australia is consistent with the other states. It is also important that we ensure the viability or ongoing protection of our own fisheries.

I think it is important to stress that there are no decisions made on what those possession limits will be at this stage. The government has certainly undertaken to consult very carefully with the various people involved, particularly recreational fishers, before any regulations are made. There can also be prescribed defences when possession limits are introduced.

I understand that some recreational fishers are concerned about possession limits, and it is a valid concern. However, it is important to note that they will be introduced, where necessary, with considerable consultation with those who will be affected by them in an effort to ensure that we listen very carefully to those who will be most directly affected by possession limits. The South Australian Recreational Fishers Advisory Council and its members will, of course, play a very important part in that consultation process and will make representations as to what they think the possession limits will be.

I think that, on balance, the bill provides a good overall strategy for the ongoing management of our fisheries to ensure that they are handled in a way that will be ecologically sustainable and respect the rights, responsibilities and needs of the various parties and stakeholders involved, especially the commercial fishing industry and recreational fishers. The fishing industry is a very important part of our state's economy, particularly where I come from. I had the good fortune to grow up not far from Port McDonnell, which has the largest seawater lobster/crayfish fleet in South Australia. It is a very important part of that community and, indeed, of many other communities around the state.

I commend this bill for its being a very carefully thought out and sensible approach to ensuring the ongoing viable and sustainable management of our fisheries in a way that respects the rights and requirements of all those involved in fishing. I commend the bill to members.

The Hon. A.L. EVANS: I rise to support the second reading of the bill. Apparently, after 25 years the old Fisheries Act has become stale. For several years, the fisheries industry and the present Rann government have wanted to clean and gut (to use a pun) the old Fisheries Act. I acknowledge the work of the former Liberal government in initiating public consultation for the bill while it was in office.

Family First supports measures which ensure environmental sustainability in our fisheries while encouraging our seafood industry and preserving the important rights of our recreational fishers. We acknowledge the important submis-

sion given to us by the Fisheries staff in reference to the bill, as well as our valued discussions with Neil Armstrong on behalf of the state's recreational fishers. Neil Armstrong came to parliament shortly after the election of my colleague the Hon. Dennis Hood, and I am pleased to say that he is content that the bill will not cause undue hardship for recreational fishers. At least his association of recreational fishers is content with the new concept of possession limits contained in the bill—provided, of course, there is proper community consultation in setting sensible limits. We thank Bardy McFarlane of the Seafood Council and Neil MacDonald of the South Australian Fishing Industry Council for speaking to us. Finally, I refer to the valuable discussions and information provided by the Wilderness Society.

Family First has consulted widely in relation to the bill because it is important that we get the legislation right so that the rights of recreational fishers are not jeopardised and our fishing industry thrives. Seven hundred families in South Australia are directly involved in the fishing industry. These families employ approximately 4 500 people in our rural towns and fishing ports. In our scenic towns, such as Robe and Port Lincoln, 320 000 South Australians fish recreationally at least once a year.

Our sensible fishing practices have ensured that we continue to land approximately $200 million worth of fish each year in South Australia. That is the 'beach price' and, when you start talking wholesale prices, it becomes $400 million to $500 million each year. When we asked some representatives from Fisheries to give us an example as to why this new bill is necessary, I was told the story of an abalone poacher, which I will relate in order to explain the incredible lengths to which some poachers will go. The Melbourne *Age* told of a young abalone poacher caught in a police sting operation, as follows:

> He dived for two hours until about 1 pm, surfacing with 459 abalone, 46 times the recreational daily catch limit of 10, worth about $4 000 on the black market.
>
> Pursued by officers, he raced on to exposed reefs, dived into the sea to swim by impassable rocky points and hid for hours. Five hours later and four kilometres from initial interception, the Southern Peninsula Rescue Squad helicopter's thermal imaging technology detected [the poacher] trapped in darkness clinging desperately to the base of a steep cliff he probably fell from.
>
> Broken and bloodied, suffering hypothermia and surrounded by rising seas, he signalled for help. A rope recovery was impossible and the chopper could not land or winch him out. A bigger police search and rescue ambulance helicopter floodlit the scene as fisheries officer Rob Barber swam from a patrol boat in rough seas to rescue and return with Lester who was treated, then arrested.

What a remarkable story of the lengths to which people are willing to go in order to poach abalone, which can be sold for about $10 each. The judge in that case quite rightly said that these poachers show all the same characteristics of drug smugglers: they are in it for the money, aware of the risks, but they poach the seafood anyway. It is bad for our environment, the fishing industry and recreational fishers.

In South Australia, we had the Karagiannis story—one of our worst poachers. Only a few weeks ago, he received his third gaol term for abalone poaching (an 18 month term with 12 months' non-parole) and a fine of $30 000. If he had been fined in Victoria rather than in South Australia, he probably would have been fined $130 000 rather than $30 000. One of the main features of this bill is to increase penalties for poaching to bring them in line with other states. However, that is only one aspect, and this bill has as many aspects as a fish has bones. This bill will provide the following:

1. A new management structure, with industry experts fulfilling a board advisory role on the council.
2. An ecological sustainability focus. Management plans will include an environmental risk assessment and new legislative tools to protect fish habitats, a concept strongly supported by Family First.
3. The fisheries resources owned by the state will be managed by carefully considered 10-year fisheries management plans.
4. Search provisions will be extended to allow for personal searches of suspected poachers.
5. A brand new demerit point scheme.
6. Strict possession limits, which the other states have already implemented. On the topic of possession limits, our office has been promised that there will be in-depth community consultation and discussion with recreational fishers before the limits are set.

The industry is behind this bill and the recreational fishers are content. There has been in-depth community consultation, with 22 public meetings, over 150 public submissions and 209 recommendations from the steering committee, which is made up of industry representatives, state government agencies, and interested parties. The minister should be commended for the depth of the consultation that has taken place. In fact, Neil MacDonald from the Fishing Industry Council has indicated to us that he is very happy with the depth of consultation the industry received.

I understand that there has been extra fine tuning in the past few weeks and some level of frustration in both government and industry camps, mostly on the topic of rights of renewal for licences, but I understand that the amendments introduced by the government will resolve all those frustrations. Family First has been strongly lobbied to support this bill as a way to bring our fisheries into the 21st century, and we have heard no opposing views. Therefore, Family First supports the bill and its second reading.

The Hon. SANDRA KANCK: The current act, which this bill will replace, has been in place for almost 25 years—and the length of operation of that act is a clear indicator to us that the bill before us has to be as good as that legislation to last a similar length of time. In other words, it is better that we get it right from the start.

A lot of the work was done behind the scenes in negotiations with the fishing industry before the bill reached us. I was pleased to find out last year, when the bill was first introduced, that all of those who had that input agreed with the bill. However, the situation has altered a little since then, and amendments have been tabled by the government and the opposition for our consideration. So, what looked like being a simple bill is maybe not as simple as it started out. I have had an initial departmental briefing, a follow-up meeting about the amendments, and also a meeting with Neil MacDonald from SAFIC.

I welcome this process because it is part of the important work done by the Legislative Council. If we had one chamber, which our Premier wants and which I believe all the ALP members in this chamber are committed to, the opportunity to further improve this bill would already have passed and, in no time at all, the government would have had to introduce an amending bill. We are now in a position where we have had time to look at the bill. People have had a few second thoughts, and we can now, in a mature way, debate those issues and see what we can do to improve the bill.

My party, the Australian Democrats, already has some important runs on the board in regard to the state's fishing resources. Members might recall the private member's bill to ban netting introduced by my former colleague Ian Gilfillan. That bill was subsequently taken up by the government, and it is pleasing to note that feedback from recreational fishers is that, since that netting ban was put in place, there has been an increase in the availability of some species.

We must always recognise that fisheries is a portfolio that deals with the exploitation of nature. Most of us in this chamber consume seafood, so we are beneficiaries of this exploitation. However, sometimes that exploitation goes too far and we see the near collapse of a species. South Australia has never had a catastrophe like that of the Newfoundland cod fishery collapse, but we know that some species could go that way. The southern blue fin tuna, for instance, is listed internationally as critically endangered although, to its shame, this government has refused to classify this fish on our endangered list.

We must always be conscious that our fish assets belong to everyone and that fishing is a privilege and not a right. From an environmental perspective, I am pleased to see in this bill that strong fines will be attached to the escape of fish from pens. I am in the process of having some amendments drafted—they are not quite ready—and I will deal with those amendments when we get to the committee stage. However, I will raise some questions that I would appreciate the minister answering when she responds to the second reading debate.

We know that management plans are important, but they are very slow in developing. It was recently drawn to my attention that it is almost five years since the government all but closed down the River Murray commercial fishing industry. It was agreed at that time that a management plan would be prepared, yet almost five years on there is no such plan and nor does one appear to be in the offing. I ask the minister, in the context of this bill: why is there a delay and when will that plan appear? It is an important question not only in terms of the process that went on back then but also in terms of what we can expect in the future for management plans. I also ask: what role will NRM boards play in overseeing the environmental sustainability of our commercial fisheries?

Most of us are aware of breaches of bag limits by recreational fishers, and it is important that everyone who fishes should have a fair go. Unfortunately, the number of fishing inspectors in this state is very low, particularly in the areas where recreational fishers abound. In order for everyone to have a fair go, there needs to be increased surveillance. I would like an indication from the minister as to what plans the government has for increasing the number of fishing inspectors on the ground. All-up, I think this bill creates some improvements and I indicate Democrat support for the second reading.

The Hon. M. PARNELL: In a perverse sort of way I have a fondness for the old Fisheries Act because the first ever court trial that I ran in South Australia largely revolved around the interpretation of section 53 of the Fisheries Act, and I think that case either is or is close to the record in terms of the length of trial in the Environment, Resources and Development Court for a planning appeal.

The reason the Conservation Council won that case over the Tuna Boat Owners Association was largely the complete inadequacy of the Fisheries Act in dealing with the ecologically sustainable management of (in that case) aquaculture but, I would argue, also in relation to the whole of the fishing industry. The present regime simply does not have sufficient regard to the environment to ensure that fisheries will be conducted in an ecologically sustainable way.

The provisions of the Fisheries Act that relate to aquaculture have been replaced, largely by the Aquaculture Act, which is a far better regime than trying to manage that new industry under an old piece of legislation which was not developed for that purpose. The process of bringing about change to section 53, the process of having the Aquaculture Act introduced, was largely a complaint-driven process and a litigation-driven process whereby conservation groups complained for many years about the corrupt processes of primary industries and the incompetent processes of the Development Assessment Commission before that system was eventually changed—and that was a good thing. I think it is now timely that the rest of this act is reviewed as well.

The government set up the process of reviewing this legislation some time ago. I understand that the green paper is four years old this month. Those of us who engaged in that process back then have now had to refresh our memories as to the things we said and the arguments we raised back then, because it has really been a long time between drinks. As part of that green paper process I spent a short amount of time on one of the community reference groups for the Fisheries Act review and, I have to say, it was a process that started out with great promise. We were told, for example, that everything was up for review; that everything was on the table; that the whole regime for managing and protecting fish and protecting the marine environment was ours to comment on and to come up with recommendations.

However, that was not the case—not everything was on the table. In fact, there were some sacred cows that we were told back then would not be considered, including the issue of recreational fishing licences. I note from a recent holiday that these are now compulsory in New South Wales but, four years ago, the government was too scared to even talk about them. It is not as if they have not been on the informal agenda. Back in 2002 a couple of Riverland councils were calling for recreational fishing licences: the Berri Barmera Council and the Renmark Paringa Council. I notice also that the chief recreational fishing body in Western Australia, RecFish West, commenced a lobbying campaign some years ago to get the Western Australian government to introduce recreational fishing licences in that state.

I have to say that I do not know whether recreational fishing licences are a good idea or not. I do not know whether they would have improved the way we manage the total fishing effort, but I would have liked to be able to have the debate. I think it was unfortunate that the government ruled that out, pulled it from the agenda, and did not allow the community reference groups to talk about it.

The issue of enforcement of fishing laws has been mentioned by other speakers, but I will offer one very brief anecdote in respect of an experience I had last Saturday night. It was a very hot day, as members might remember, and the beaches were crowded and Brighton jetty was crowded. A number of people on Brighton jetty were fishing for crabs with nets. One successful angler (or netter, if you like), a woman who was fishing there, pulled up a crab in her net and that, of course, means that a crowd gathers around to have a look at what was caught.

A debate then ensued on the jetty about whether or not this crab was the minimum legal size. What was interesting was

that most of the commentators expressed the view, 'Well, it's big enough to eat, therefore it's yours. You take it; you keep it.' But, to her credit, the woman who was fishing had a little plastic gauge which, by the look of it, represented the same dimensions as those found on the fishing guide on most of our jetties. She appeared to measure the crab quite accurately and, as it was a couple of millimetres under, she threw it back, much to the horror of many of the people who were watching. To me, that says two things: first of all, good on that person (and I do not know who it was) for doing the right thing; and it also says to me that we have a lot of work to do as a community to educate people about size limits, bag limits, appropriate catch methods and how to handle undersized species so that they are not destined to die when they are returned to the water, having been mishandled.

There is a lot of work that needs to be done, and that is important in the recreational sector because we do not have enough inspectors out there checking every boat and every fishing bag. It is largely going to be a self-regulated system. In terms of the state of fish resources in Australia, I note the recent release of a regular report by the Bureau of Rural Sciences on the status of fish. That report (from, I think, late January 2007) confirms that the number of overfished species in Australia has increased from 17 to 24 and that the most severely overfished of those species still have no prospect of recovery. That is a terrible indictment at a national level of the state of fisheries management.

I note some of the comments made by Michael Kennedy, Director of the Humane Society International, who refers to two species in particular, saying:

> Orange roughy and southern bluefin tuna have both been assessed by the federal Threatened Species Scientific Committee as fulfilling the criteria for protection as endangered species, yet the government has not listed them and they continue to be overfished. This report [the Bureau of Rural Sciences fisheries status report] reveals the government's claims of sustainable fisheries management are a sham. One population of orange roughy is assessed as overfished for the first time, while all other populations continue to be overfished—and yet the fishery has just been given its accreditation as a sustainable Wildlife Trade Operation.
>
> If the government followed its own guidelines and directions there would not be a problem. The problem arises because the fishing lobby is strong enough to sway government decision-making.

When we think about the status of species such as southern bluefin tuna, which is managed federally rather than directly through state legislation, we can see that the economic power of the industry is such that it has not been listed as an endangered species nationally despite overwhelming evidence, and the state government also refuses to consider it for endangered species listing in South Australia. So the state of fish stocks at a national level is a real cause for concern.

If we refer to just South Australia, I note an AAP news report of 17 December 2006 in which Mr Corigliano, former president of the South Australian Fishing Industry Council, had some very scathing things to say about the way the prawn fishery has been managed in Gulf St Vincent. Mr Corigliano said that the catches now being achieved are similar to those prior to the fishery being closed for two years in the 1990s (which was done to prevent a total stock collapse). He says that the only sensible solution is for the government to reduce the number of boats licensed to fish in the gulf, and goes on to describe the fishery as being 'in dire straits, with the stock so reduced that it is struggling to sustain itself and licenseholders are operating at a loss.' So, this problem of overfishing is not unique to nationally-managed fisheries; clearly, it is also an issue for state-managed fisheries as well.

Part of the test of this legislation will be whether we turn around that history of overfishing of commercial species. One good point about the legislation is that it seeks to acknowledge (I think for the first time) the different impacts on species that come from different fishing sectors: namely, the commercial sector, the recreational fishing sector, the charter sector, and, to a smaller extent, the indigenous fishing effort. I know there are some amendments before us (which I will talk about later) that raise the issue of whether we should entrench the proportions allocated to each of those sectors, but I have serious concerns about whether locking those proportions into legislation is a good idea. However, the legislation does acknowledge that the problems of overfishing are not the fault of just the commercial, recreational or charter sectors but a collective responsibility.

This legislation acknowledges the principles of ecologically sustainable development, and that is a good thing. There are arguments that this legislation could have gone much further and, in particular, that it could have more explicitly acknowledged the framework as one of ecosystem-based management. That approach is being taught in relevant tertiary courses around fisheries management and it is one that we could, perhaps, have adopted more in this legislation.

One thing that comes from adopting the ecologically sustainable development approach is that it incorporates the precautionary principle, and that is a very important part of fisheries management. As a lawyer (in previous days) I can recall being approached anonymously by various officers within the fisheries agency who were quite despairing of the lack of attention paid to the precautionary principle when it came to setting quotas. The attitude in the department seemed to be that unless you could prove that the species was about to go to the wall then you did not do anything to cut quotas, whereas the precautionary principle should really be about absence of information inviting tough action. If the information base improves so that you can restrict tough quotas then perhaps that is appropriate later. It will be interesting to see how the precautionary principle finds its way into the management plans under this legislation.

In closing, I am glad that, after some five years, this bill has found its way into parliament and I look forward to the committee stage. I note some of the questions that have been put on notice by the Hon. Sandra Kanck and others and I look forward to the minister answering those questions before we get into the committee stage, because the amendments that have been foreshadowed are complex and I think some of them have the potential to undermine what is, mostly, a good bill.

The Hon. NICK XENOPHON: I support the second reading of the bill. I think the Hon. Caroline Schaefer said that this bill has had a longer gestation time than an elephant, and that is certainly the case; however, the bill does have a number of welcome measures in terms of the management of our fisheries. It is an important industry with a significant export component, and it is an industry that makes a significant contribution to this state. Of course, there are also the recreational and charter fishing components. Many thousands of people—some 320 000 South Australians—fish at least once a year in our waters; and I defer to the Hon. John Gazzola for his expertise in relation to fishing.

I think it is important that a number of matters be answered by the government in the committee stage. The

Hon. Sandra Kanck raised the issue of the lack of enforcement because of a lack of resources. Further, I would like the minister to advise how many spot checks or inspections of recreational fishers are conducted by fisheries inspectors each year. How many convictions are there each year? In relation to commercial fishers, what is the level of enforcement? How many people get checked each year? That would enable us to get an idea of some system of compliance and enforcement that has real teeth. The penalties can be quadrupled or increased tenfold, but if people feel that the chance of getting caught is quite remote then it makes a joke of any increased penalties if we do not have the resources and an effective system of enforcement.

In relation to the concerns of the Seafood Council about certainty with respect to licences in the context of management plans, I note that the Hon. Caroline Schaefer has filed some amendments. I believe it is important that there be an equitable and fair approach in dealing with licences in the context of transitional arrangements. Also, in relation to management plans there should be a transparent process where those in the fishing industry—where it costs $5 million, $6 million or $7 million for a prawn boat—know where they are at in terms of their future in the industry. Of course, a balance with respect to environmental sustainability must always be a very key consideration. There will not be an industry without appropriate environmental sustainability. I think the committee stage of this bill will be contentious and there will be considerable debate. I look forward to the committee stage of this bill so that we can get a good outcome for the environment and for both the fishing industry and recreational fishers in this state.

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank the Hons Bernie Finnigan, Andrew Evans, Sandra Kanck, Mark Parnell and Nick Xenophon for their contributions—although I note that the Hon. Nick Xenophon did not put his recipe for octopus on the record. Also, I must correct the record. Apparently, the Hon. John Gazzola does not profess to have expertise in fishing but, rather, enjoys fishing and eating seafood.

This bill replaces the Fisheries Act 1982. It maintains many of the fundamental structures of the current act, but modernises legislation in terms of fisheries management requirements, summary offences, higher penalties and alternative enforcement systems. It also establishes a fishing council (which is an expert-based board) to provide advice to the minister on fisheries management issues.

The Minister for Agriculture, Food and Fisheries was responsible for overseeing the passage of this bill through the House of Assembly and in so doing he noted the extensive consultation that has occurred over more than five years with both industry groups and the community, and the maturity and quality of that consultation process. He noted that everyone has been prepared to come back repeatedly to have their position reconsidered or modified.

In keeping with that process the minister agreed to consider a number of issues raised in the lower house. In particular, the member for Frome raised a number of issues on behalf of the commercial fishing industry. The minister undertook to consult with his department and parliamentary counsel to determine how some issues could be clarified in the bill. To that end I have filed a number of amendments. However, before these amendments were filed the Hon. Caroline Schaefer filed a set of amendments. The amendments which I have filed incorporate some of the concepts in the Hon. Caroline Schaefer's amendments. Therefore, the government presents its amendments as a package, which it understands meets the concerns of the commercial fishing industry without compromising the position of our stakeholders who previously agreed to this bill through the lengthy consultative process.

The government does not support the Hon. Caroline Schaefer's amendments. Three major issues have been clarified through the amendments. First, in relation to the reallocation of access to aquatic resources, amendments have been drafted to further clarify that if there is a shift of shares away from the commercial sector in favour of another fishing sector that reduction should be fairly compensated. Regulation-making powers have been drafted in relation to this issue in order to allow the issue to be dealt with on a case-by-case basis through management plans and associated regulations.

Secondly, the terms of licences and management plans have been clarified. The term of a licence has been explicitly linked to the life of a management plan. Therefore, the circumstances in which a management plan is extended, replaced or amended on or before its expiry date are set out. These amendments provide access security to anyone who holds a licence in a fishery with a management plan by ensuring that a management plan can always be in place so that a sector is not left in a vacuum without an explicit allocation of a share of the resource.

Thirdly, the minister alluded to the principle in the lower house that the starting point when allocating access to a resource is the existing level of access currently enjoyed by each fishing sector. Therefore, amendments have been drafted to enshrine this principle by requiring that the levels of access that exist at the time the minister asks the Fisheries Council to prepare a plan are taken into account in the preparation of the plan. The amendments provide that the most recent information available be used to determine what the existing levels of access are for each sector.

In addition to the issues agreed for consideration, other amendments are also proposed to refine the drafting in relation to other issues and to incorporate amendments to the Family Relationships Act. In her contribution, the Hon. Sandra Kanck sought some answers, and I will endeavour to respond to her questions. If further information is required, we can deal with the honourable member's concerns in committee. Also, I note that the honourable member will be filing some amendments herself. First, in relation to the management plan for the river, as a non-native fishery, essentially it is focused on the control of European carp. It has only six licence holders.

South Australia is working in partnership with the Murray-Darling Basin Commission which has released a National Native Fish Strategy and which the state agencies are implementing. The policy in relation to the non-native fishery is clear, but a simple plan outlining the new arrangement required under this bill will be prepared once the bill is passed. In relation to increased surveillance (that is, more fisheries' officers), PIRSA has 43 fisheries officers at nine regional stations across South Australia. We believe this is adequate for addressing compliance risks in the commercial and recreational sectors.

Community education and awareness is, of course, an important component of the compliance strategy, and the Fishwatch 1800 free call number has been very successful in assisting fisheries' officers to address illegal activity. Of course, one can always use more officers, but the current resources are adequate for the identified compliance risks.

Also, there is a full cost recovery policy for commercial fisheries, and compliance services are tailored to the identified risks in the sector. This policy ensures that appropriate resources are in place to support the Sustainable Fisheries Program.

In response to questions asked by the Hon. Sandra Kanck and the Hon. Mark Parnell, it should be emphasised that orange roughie and southern bluefin tuna are commonwealth-managed species. In relation to South Australia's prawn fisheries, it is important to acknowledge that, whilst Gulf St Vincent prawn stocks do require management action, at the same time the Spencer Gulf prawn fishery is extremely healthy and considered world class in its management. Of course, this is largely due to the mature approach of the industry in relation to looking after the resource.

We believe that the Gulf St Vincent fishery is more an economic issue than a stock collapse issue. Again, I thank all members for their contributions. This is a very important piece of legislation which will protect our marine environment. I am pleased to see the consultation that has gone into the legislation, and the cooperation of many to set the legislation before the chamber after, I understand, some five years. Again, I thank members and I look forward to the committee stage.

Bill read a second time.

LOCAL GOVERNMENT (STORMWATER MANAGEMENT) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 7 February. Page 1 399.)

The Hon. R.P. WORTLEY: I support this bill and recognise the importance of stormwater management in this state. Labor has been the first government to acknowledge the significance of managing our stormwater and the need to improve current arrangements. In this regard, we have taken the lead in working closely with the Local Government Association to develop long-term strategies. The amending bill before us today seeks to provide legislative backing to certain aspects of the Stormwater Management Agreement. This includes the constitution, function and powers of the proposed Stormwater Management Authority as a statutory corporation under the Local Government Act 1991.

The primary purpose of the Stormwater Management Authority will be to manage the distribution of funds towards priority projects, as well as supporting the preparation of flood plain mapping and stormwater management plans and the prioritisation of stormwater infrastructure works on a catchment-wide basis. The governance arrangements set up in the bill are aimed at both levels of government working together towards high priority, total catchment solutions. Importantly, this bill was amended under the guidance and support of local government.

All stakeholders have realised the importance of working together to prevent disasters, such as the damaging Virginia floods. The impact of the deluge over the Gawler-Virginia area last year resulted in the Gawler River bursting its banks, in a sound reminder of why it is important that we work together to prevent members of our community from having to flee their own homes as they are flooded as a result of poor stormwater management. Up to 60 homes around the Gawler River plains area were damaged by the floods. The Adelaide to Port Augusta rail line was also ripped up, and the floodwaters across the track at Gawler prohibited the Indian Pacific from continuing its journey to Adelaide. Farmland was destroyed, many homes and over $100 million of infrastructure was damaged, all due to poor management of stormwater.

The Gawler River is an example of the need for a new collaborative approach to stormwater management, which will allow for local government coordination across the catchments. We live in an unpredictable country of flood, fire and drought—which gives strong support to the famous song lyric 'a land of drought and flooding rains'. We are enduring a new extreme in relation to weather. With our four seasons becoming less defined, it is essential that we cater to and prepare our state for the unexpected. Although we are suffering from the effects of drought, we need to take this time to establish a sound and managed stormwater infrastructure that can handle the unpredictable. We need to prepare the metropolitan areas of this state for the possibility of mass flooding, because one never knows what climate change has in store for us.

Although we as a state are suffering from the effects of drought, the changing landscape of metropolitan Adelaide is putting added pressure on our stormwater system. This needs to be taken into consideration when developing new stormwater infrastructure to ensure that the new system meets the demands and added pressure of the state's changing landscape. As I said earlier, the bill's success is reliant on a joint collaborative approach, not only by local government but by all levels of government. We need to work towards dealing with the threat of flooding and developing better ways to manage the use of the state's stormwater resources as a joint project.

The Hon. S.G. WADE: In rising to speak, I indicate that the Hon. David Ridgway will be the lead speaker for this bill on behalf of the opposition. To raise a sense of anticipation, he will be contributing later! I will begin with the following quote: 'Integrated natural resources management—the government's commitment'. These are the opening words of the speech of the then minister for environment (Hon. John Hill) when he introduced the Natural Resources Management Bill in another place almost exactly three years ago. The minister went on to state:

> Lack of integration in natural resources management inevitably has caused great frustration. . . Over the years there has been a certain lack of coordination, sometimes even outright inconsistency, in the projects and objectives of the different arms of government. . .

To address these inconsistencies, the government created the new natural resource management framework to implement a holistic approach to resource management. The long title of that act is: 'An act to promote sustainable and integrated management of the state's natural resources'. The act makes it clear that the term 'natural resources' includes water resources. The NRM framework, the government claimed, was predicated on the need to integrate the planning and management of water resources. The Department of Water, Land and Biodiversity Conservation website states as follows:

> Water is a vital resource for South Australia's future prosperity. Its sustainable use within an integrated natural resources management framework. . . underpins activity in the government, industry and community sectors.

This government claims that it is committed to integrated water resource management. Of course, the government did not invent integrated water catchment management—it is established best practice, which every state and territory

government and the federal government affirmed in signing on to the National Water Initiative.

The intergovernmental agreement on a National Water Initiative includes objective (ii), 'transparent, statutory-based water planning' and objective (x), 'recognition of the connectivity between surface and groundwater resources and connected systems managed as a single resource'. The specific key elements of the NWI include key element (iv): 'integrated management of water for environmental and other public benefit outcomes'.

Government, environmentalists and water industry players recognise that water needs to be managed on a whole of catchment basis. What we do to one element of the water cycle may well impact on other elements. Pumping of groundwater may affect river flows. Poor management of stormwater can damage the marine environment. Use of irrigated water may increase the salinity of surface water. We need to plan holistically. Stormwater is an integral part of the water cycle and, as such, it should not be separated or removed from that cycle.

Given the crisis that this state faces with the drought and the state of the Murray-Darling Basin, we should be acutely aware of the need for an integrated and coordinated approach to water resources. The government said that it got it in 2004. But that was 2004. Now, in 2007, three years later, the government has a new idea. The bill before us today seeks to place the management of stormwater in a new, separate body, the Stormwater Management Authority.

The opposition agrees that the government needs to do something about stormwater management. The current management of stormwater is far from integrated and far from efficient. Responsibility should no longer be spread between a myriad of authorities. However, if the government wanted to integrate stormwater management—and given that the government has repeatedly committed itself to integrated water catchment management—one would have expected integrated stormwater management under the NRM board, the board that is responsible for the integrated management of natural resources.

However, this government has decided to establish yet another board. It is integration through separation, integration through duplication and integration through adding yet another board. The council come to only one of two conclusions: either this bill is a vote of no confidence in the NRM board's capacity to provide effective whole of catchment water management or the government is backing away from its so-called commitment to integrated management. If the government does not think that the NRM boards are capable of managing the state's water resources, it needs to act. Water resource management is too important to this state to be put in the hands of bodies in which the government does not have confidence. If the government is no longer committed to integrated water catchment management, the minister needs to explain what wonderful new theory the government has come up with.

In spite of all the failings of the bill, the opposition will not oppose it. The communities of this state have waited too long for the government to provide some action. They should not have to wait until the government offers effective action. However, I hope that, in the not too distant future, we see this legislation revisited, and South Australia might once again pursue integrated water catchment management.

The Hon. SANDRA KANCK: Stormwater management—the word 'management' implies a problem, something we have to manage and control because it is out of control. Yet, at a time of water crisis in this state, we are just beginning to recognise the positive benefits that harvesting that same problem water source, through water tanks, retention ponds, dams and aquifer recharge, can bring. Control of stormwater to prevent urban flooding has become a contentious issue, particularly as a consequence of urban infill, which means that less land is open to the elements and unable to absorb rainfall as nature intended. A pamphlet issued by the New South Wales government describes it very nicely. In answer to the question, 'Why does urban development cause flooding?', it states:

> Extensive urban development has resulted in previously vegetated catchments being covered with hard surfaces such as roads, roofs and paving. The hard (or impervious) surfaces prevent stormwater soaking into the soil. Instead, the stormwater is carried away by a series of pipes and drains to the local creek. When the volume of stormwater gets too much for the drainage pipes or watercourses to carry, flooding occurs.

Local government has not handled the issue of stormwater well. In my opinion, it has quite irresponsibly approved housing much too close to creek lines, and it was not prepared to amend its own development plans to deal with the consequent flooding problems. The downstream residents have borne the consequences of the increased urban development upstream in the form of that flooding. Local government has looked for engineering solutions, viewing Adelaide's ephemeral creeks, at best, as drains rather than ecological systems. Over time, we have seen creeks that have been completely filled in (sometimes to be replaced with underground pipes), while many of those creeks lucky enough to have survived have had trees removed and concrete bases put in the bottom. All these so-called solutions have resulted in less water going back into groundwater and less aquifer recharge.

In an attempt to deal with local government inaction on flooding, the state government took the bull by the horns and released the Brown Hill and Keswick creeks flood plain ministerial plan amendment report in, I think, 2002. It covered 17 local government entities in metropolitan Adelaide—those that were creating the problem and those that were on the receiving end. However, following intense lobbying against it by Unley residents, who were concerned about the potential devaluation of their properties, the minister withdrew it in 2004.

Those residents who opposed that plan amendment report (PAR) formed themselves in a group called RAPAR (Residents Against the PAR). As they wanted the Environment, Resources and Development Committee to become involved and write to the minister expressing concern, they individually met members of the committee to lobby us. The group had done its homework and, when it met with me, it made the point that source control upstream was what was needed. They had calculated that, for a 200 square metre roof catchment area on a home, an 8 000-litre tank (costing, they said then, $1 800) could be installed and the water from the feared one in 100-year flood could be held back. It is certainly a far better solution than concreting our creeks and turning them into drains to allow water to get away faster. There is also the potential benefit of aquifer recharge if this water can be held back and gradually released.

Much of the content of the bill is administrative and relates to the establishment of the stormwater management agreement, the stormwater management authority and the stormwater management fund. There are also matters such as

the handling of demarcation issues between local government and NRM boards. I note that four of the seven members of the authority will be members of local government. The authority will instruct local councils to prepare stormwater management plans, but I observe that the world moves slowly. Back in September 2003, the Environment, Resources and Development Committee, of which I was then a member, tabled a stormwater report containing 35 recommendations, one of which was that there be one stormwater management body for metropolitan Adelaide, and another was that the development of stormwater management plans be mandatory for all metropolitan councils.

It has taken 3½ years since the ERD Committee made those recommendations for us to deal with this bill now. Having put such requirements in place in the bill, I think that the guts of the powers of the bill are in clause 21, where specific details are recorded of the sorts of actions that could be taken, such as excavations, water diversions and aquifer recharge. One of the ERD Committee recommendations, which I hope we will see implemented very quickly as a consequence of clause 21, is the construction of detention ponds (or, as others call them, retention ponds) in all new urban developments.

I want to talk a little about the Para Paddocks at Salisbury. Two pages in a federal government booklet, entitled 'Natural passion: communities in action', are devoted to the work that my friend Bob Giles and his group did in 1972 in that area. Bob was a member of the Town and Country Planning Association, which was a precursor to the Conservation Council of South Australia. With local residents, they implemented what were, effectively, South Australia's first green bans. Bob has been referred to as Adelaide's Jack Mundy. The article states:

> Inappropriate engineering in the escarpment's urban design, causing flooding in the lower hills above, and flat land below, suggested the likelihood of flooding should the same design standards be used on the flat lands.

This was a Housing Trust development that was going ahead on degraded agricultural land. Bob Giles went on to say:

> We thought it would be wiser and more responsible to convert the problem into a resource, to use the water on site rather than pipe it, carrying its pollution with it, to the sea.

So, the people in that group got together and collected 5 000 signatures. They held street corner meetings and doorknocked, explaining to the local community what it was they were trying to do and, basically, got the whole community on side. Bob Giles went on to say:

> And being led by a Union Secretary with Green Bans form—

Bob himself being that union secretary—

> and with Premier Don Dunstan looking on, I think all helped. . . As a result, the new plan for Para Paddocks achieved more—and more imaginatively designed—housing than was originally proposed, and incorporated creeks, mounds, grass swales and floodways, ponds and wetlands. . . Since completion of well-head works, pumps and control systems in 1996, Para Paddocks has been self sufficient in irrigation water requirements, saving the city in the order of $50 000 per year in water costs.

I also observe that, as part of that, there are real economic benefits. Some years back, the wool scouring company Michell's was finding that its water costs were becoming quite prohibitive. However, as a consequence of the work that had been done at Para Paddocks and other stormwater programs the Salisbury council has subsequently put in place, they were able to offer much cheaper water to Michell's, which meant that there was less pressure on our mains water, and, because of the cheaper price they were able to offer, it meant Michell's was able to stay here in Adelaide. So, everyone was a winner.

Another of the positive benefits of retention ponds is that we hold back that water from rushing out to the gulf. When the ERD Committee was conducting its study into stormwater, we took some evidence about the impact of stormwater going into the gulf. We were informed at that stage about the Adelaide coastal waters study and, although we felt quite convinced that the evidence was pretty strong that the stormwater was causing degradation to the marine environment, we made the observation that we would await the results of that coastal water study to confirm whether or not that was the case. That study is continuing, and there have now been some very recent studies, and I will refer to a couple of those. The Adelaide coastal water study, technical report No. 15, under 'Executive Overview', states:

> Since the 1940s, over 5000 ha of seagrasses have been lost from the Adelaide metropolitan coastline. In particular, major losses of the nearshore meadow forming seagrasses, *Amphibolis* and *Posidonia*, have occurred in Holdfast Bay with a gradual offshore regression of the 'blue-line.' Prior to European settlement, there were very few coastal inputs to Holdfast Bay. While the Patawalonga Creek and the Port River may have historically delivered some freshwater to the coast, engineering works and urbanisation during the 20th century substantially increased coastal inputs via rivers, stormwater drains, and wastewater treatment plan. . . outfalls. Due to the various coastal inputs, Holdfast Bay is no longer pristine, with elevated levels of nutrients, toxicants, and turbidity being detected and reported regularly over the last 30 years. Consequently, each of these potential stressors has been implicated in the historical loss of seagrasses. In addition, it is possible that reduced salinity associated with the freshwater coastal inputs has also contributed to seagrass loss.

After completion of some laboratory tests, technical report No. 11 states:

> . . . our results unambiguously demonstrate that chronic, yet minor, increases in water column nutrients can cause the decline of *Amphibolis* and *Posidonia* in shallow, oligotrophic coastal waters. Such a response had not been previously demonstrated through experimentation. Results of our work have clear implications for coastal managers with respect to the discharge of nutrients into shallow coastal waters where seagrasses occur.

Technical report No. 15, which basically summarises all of the other technical reports that have been done up to this point, under the heading 'Management Implications', states:

> Nutrient levels along Adelaide's coastline are clearly elevated due to wastewater, industrial, and stormwater discharges. . . These results have clear implications for coastal managers with respect to the discharge of nutrients. . . Light conditions in the nearshore of Holdfast Bay are severely lowered by stormwater discharges. Work within Task EP 1 has shown that the lowered and variable light conditions in Holdfast Bay could be detrimental to seagrasses.

The Democrats have long advocated compulsory installation of rainwater tanks, and we are pleased that this government has now followed our lead to make this mandatory for all new houses. However, where the government does fall short is in requiring industry to act responsibly in this regard. We would like to see something coming from government that requires stormwater harvesting from all existing industrial buildings, at the very least to use for the flushing of toilets.

Recommendation 10 of the Environment, Resources and Development Committee report recommends that 'state and local governments introduce grassy swales adjacent to roadsides to help reduce the level of pollutants in stormwater run-off.' I have to say that we were too short-sighted back then in 2003 as the role of swales can be much more than that, including reducing flooding and assisting in aquifer recharge. Swales are compulsory in all developments on the

Gold Coast and have been for at least three years. Unfortunately, despite their positive benefits, swales are not being required by local government for new housing development in South Australia.

I have mentioned the Gold Coast. The Pimpama Coomera master plan, which is under the control of the Gold Coast City Council, is so good that it recently won the global grand prize at the recent World Water Congress in Beijing—and it is one that we should take note of. This is a plan that aims to save up to 84 per cent of drinking water through the use of class A+ recycled water and rainwater. It also addresses stormwater management and uses water sensitive urban design principles to reduce and filter run-off. If you are going to build in that area, you will receive a pamphlet about the system. It talks about water sensitive urban design which, in the trade, is often used as an acronym—WSUD. It states:

> You may have noticed 'v' shaped ditches around your neighbourhood instead of traditional gutters or kerbs. These ditches are called swales and they use leafy plants and grasses to filter stormwater. Swales, along with a number of other attractive landscaping features, form what is known as Water Sensitive Urban Design (WSUD). These principles are being applied in many parts of the Master Plan region, to help reduce the velocity of stormwater and to filter it of silt and other debris.

I downloaded a brochure from the New South Wales government web site, 'What is onsite stormwater detention?' It refers to OSD, which is the acronym for onsite stormwater detention. It states:

> There are three parts of an OSD facility. The Discharge Control Pit (DCP) restricts the rate at which stormwater can leave the site. This causes stormwater to overflow into a storage area where it remains until the rain eases. The last part is the Site Drainage System which collects and delivers all the stormwater to the DCP.
>
> The DCP is a small (1 m^3) pit with a limited size outlet through which the stormwater drains into the Council street drainage system. Most of the DCP may be above the ground so that water can overflow from it into the storage.
>
> The storage can be a surface area (such as a garden, lawn, car park or paved courtyard) which can fill up with water, or a below ground tank, or a combination of both.

This brochure goes on to state that in the Upper Parramatta River catchment virtually all new developments must have OSD. So, there are many places where these things are becoming compulsory. I acknowledge that Salisbury council is installing swales and similar sorts of innovations, but there really is not a requirement yet for these to be compulsory. I certainly look forward to seeing the stormwater plans that the local councils are going to prepare, and I hope that they will have these water sensitive urban design principles in them, such as the incorporation of swales, but these are only one part of the equation.

It is interesting to observe that my husband and I put in an application to basically rebuild our back verandah and it was clear that there was no commitment to do any of these things that are becoming compulsory elsewhere, otherwise we would have had something in the approval from council to say this must be done. We already do have a small tank that collects run-off at the back and we are going to install a third one as part of this.

Going back to the recommendations from the ERD committee, recommendation 29 I think is one that is very important. Again, I hope local government takes it on. The committee recommends that in new subdivisions open space should be left adjacent to all creek lines to enable maintenance of the creek lines and to facilitate better management and reuse of stormwater. Recommendation 14 of the committee is that buffer zones between urban development and agricultural areas be used for wetlands—again, something that is easily done. Recommendation 24 of the committee is that Planning SA evaluate the contribution that developers should make to the costs of stormwater management that occur as a result of infill development. When somebody builds a house in the foothills there is a cost—there is no doubt about it—that has to be borne by people downstream. I personally believe that that development should incorporate that cost and not pass it on to the people in lower lying areas.

Reducing and diverting stormwater flow has many positive benefits for the environment. I want to read the bulk of a letter by Pat Haribson, president of the Friends of Gulf St Vincent, sent to the Premier back in November. I spoke to her yesterday about it and she told me there has still been no reply to this letter. The letter relates to Cheltenham racecourse and how this could be used. It states:

> . . . are you aware that a large detention basin on the Cheltenham Racecourse site could be a potential 'water factory', harvesting up to 2500ML water annually from the local and eastern metropolitan catchments for storage, aquifer recharge and reuse?
>
> We are advised by engineers who have expertise in this field that the aquifer beneath Cheltenham Racecourse is connected to the Northern Adelaide Plains aquifer, presenting the opportunity to readily recharge this aquifer from a storage at Cheltenham.
>
> The urban area to the south east of Cheltenham (Woodville through to Brompton), a drainage area of about 2300 ha, could realistically be drained to Cheltenham Racecourse. This water could be injected into the underlying aquifer and, withdrawn by irrigators, its extraction would yield a return of $1.5 m pa (at a nominal cost of $0.60\kL), less the cost of running the wetland (conservatively, 5-10% of expected revenue). The potential wetland water yield is about 46ML per annum per hectare of wetland, or in revenue terms, $28000 per annum per hectare of wetland.
>
> While we recently congratulated your government on increasing the area of open space reserved within the proposed housing development at Cheltenham, we are now aware that this area of open space would be less than that required to collect and store the potential run-off from the catchment. We are advised that the total wetlands area (pond area plus surrounds) required to treat the run-off from the catchment would be abut 54 hectares, for an annual yield of about 2 500 megalitres useable water. Based on an estimated yield of 46 megalitres per annum per hectare, a smaller area of wetlands, say 35 hectares, would yield about 1 600 megalitres per annum. Although a water harvesting initiative on this scale may decrease the area available for residential development at Cheltenham, a smaller area of lake-side housing would, of course, have the increased aesthetic and recreational values associated with waterfront housing in other areas.
>
> Based on the above information, the Friends of Gulf St Vincent urgently request that an area of up to 54 hectares of the racecourse/Actil/St Clair site is allocated to extended wetlands that take their water from run-off from the area to the south-east of the proposed wetlands. We believe that your government should, as a matter or urgency, investigate this opportunity to create a new water resource for the Adelaide plains. Such an initiative would inevitably become a leading example for the harvesting and re-use of urban stormwater throughout Australia.

As I said at the beginning, stormwater is not just a problem; there are real benefits associated with it at a time of crisis for water supply in South Australia.

Because of human interference in the environment, the predictions of climate change are that we will see more extreme weather events—in other words, the 'droughts and flooding rains' of that famed Australian poem. The measures that we take in this bill will not resolve all these issues. The 1-in-100 year flood that we were talking about five, 10 or 15 years ago is now likely to be much bigger than was anticipated. Ultimately the source of the problem is human beings, both in regard to climate change and in regard to stormwater.

The more of us there are the more houses and buildings we construct and the more water run-off results. It is unfortunate that this government and the opposition are hell-bent on

increasing South Australia's population. Some stormwater problems might be alleviated in the short term, it might appear to be resolved, but by insisting on increasing our population still more stormwater will be released in the longer term—with potentially devastating results. It will be a great day when both this government and the opposition recognise that increasing our population increases the environmental problems and, ultimately, the economic problems that we face. I indicate Democrat support for the second reading.

The Hon. NICK XENOPHON: I support the second reading of the bill. This is about improving the administration of, and having a systemic approach in dealing with, stormwater and it is about the long-term future of stormwater in the state in terms of its appropriate management. I note the Hon. Sandra Kanck's comments about what the New South Wales government is doing. I have an AAP report dated 4 February 2007 that says that, according to the New South Wales government, stormwater from New South Wales government buildings will be collected in an underground lake in disused railway tunnels under the Sydney CBD and recycled for use in parliament house. This $200 000 project will save more than 17.8 million litres of water a year, according to the New South Wales government.

I believe the whole issue of stormwater harvesting is absolutely fundamental to the package of water conservation measures that we need to incorporate as a matter of urgency. My question to the government is: what part of this bill encourages storm water harvesting, water conservation and other measures? Other members (including the Hon. Ann Bressington) have raised Salisbury council's approach in relation to its wetlands, and it is a similar concept, using the aquifer for the purpose of water storage. I may be wrong, but I am concerned that this bill is not prescriptive enough in requiring local government to ensure that water conservation and stormwater harvesting is a key priority of any strategic stormwater plan, and I would be grateful for the government's response on that. I have had a chance to speak briefly to the Hon. Nick Bolkus who is, of course, on the Storm Water Management Committee.

The Hon. R.I. Lucas interjecting:

The Hon. NICK XENOPHON: The Hon. Mr Lucas talks about Labor Party fundraising. He is a busy man but, in relation to the issue of stormwater solutions, my understanding (from that brief discussion with the Hon. Mr Bolkus) is that there is now a framework in place which allows for the financing of projects. I appreciate those comments, but my concern is that perhaps we need to be more prescriptive in relation to water conservation.

Residents for Effective Stormwater Solutions Incorporated (RESS) has sent details of its concerns to members and I think these have, to an extent, been incorporated by the amendments to be moved by the opposition regarding appropriate public consultation, questions of acquisition of land, and, further to that, that the Public Works Committee should look at projects that are not exempt from that committee. The latter one, as I understand it, is an opposition amendment, but the first two suggestions are certainly picked up by the group RESS. I also note that the Hon. Mr Parnell has a number of amendments concerning stormwater management, and I look forward to the committee stage in relation to that. I think his concern is that the NRM ought to be involved in terms of advice and that there ought to be some detailed management plans. I believe those amendments have merit.

Let us use this bill as an opportunity to further water conservation in this state. Let us not miss this opportunity. I believe that this bill is certainly a step in the right direction. Let us see whether we can go further in aid of water conservation.

The Hon. J. GAZZOLA secured the adjournment of the debate.

TOBACCO PRODUCTS REGULATION (SMOKING IN CARS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 6 February. Page 1356.)

The Hon. J.M.A. LENSINK: I will be brief in my contribution to this bill. The opposition somewhat reluctantly supports this particular measure. Reluctantly, I say, because, in many ways, it is a rather tokenistic measure. Certainly from the opinions expressed on talkback radio and in other fora, the issue of policing smoking while children are present will be a difficult thing for the government to do. I look forward to receiving a report or some statistics at some point after this bill has been passed as to the efficacy of having introduced it. I am grateful for the briefing I received from Drug & Alcohol Services South Australia. It presented me with a powerpoint presentation in which it stated that SA Police were consulted during the drafting of this legislation. However, the wording which I found quite intriguing was 'they have raised no specific objections to the ban.'

I am also advised that the onus is on the person to prove that the minors in the car are over the age of 16. It will be interesting to gain some reports, as I said, once this has been implemented, because there are some particular instances that will present a quandary for SA Police when they encounter a car load of teenagers and ask them to provide proof of age. Will they be hiding behind trees with their binoculars to try to identify minors in the car and so forth? There is a view among a certain number of people that adults should not smoke when children are present, but is that really a matter in which the state should intervene and legislate, or is it a parenting decision; and to what extent will this government legislate for people to do the right thing by other people?

I also note that the maximum penalty is some $200. In the case of repeat offenders, why is this penalty set so low, because one would consider that, if a parent, or indeed someone else, was continuously smoking while children were present, there should be a higher penalty or some further measure that should be taken? With those brief remarks, I conclude by saying that this is a tokenistic measure. Indeed, there are some in the anti-smoking lobby who say that it is really just a smokescreen because in 2004 the government caved in on the issue of retail displays. It had provisions for complete bans and pulled those after lobbying from certain people. Yes, it has provided a few handy headlines for a while and generated some discussion, but it really does not get to the nub of the matter.

The Hon. D.G.E. HOOD: I also rise briefly to indicate Family First's support for the second reading of this bill. The bill seeks to amend the Tobacco Products Regulation Act to render it illegal to smoke inside a passenger vehicle when minors are present. Family First wholeheartedly supports the general thrust of the bill. Indeed, we would like to see the bill

go further, as other members have suggested, and that would be perhaps our only reservation about the bill. Nonetheless, I draw members' attention to a situation that has arisen in Germany which may be of interest to members in the chamber. From this, members can probably infer that we would be happy to see smoking reduced altogether throughout South Australia; that is, in cars or otherwise.

To that end, I note a report from AAP dated 18 February this year (just last Sunday, in fact) of which I think it would be useful for members to have knowledge. The report states:

> Germany may outlaw smoking in cars because it is a health hazard and a safety risk, the government's commissioner for substance abuse Sabine Baetzing said:
>
> 'We're examining whether it would be possible to ban smoking while driving and how that would work,' she told the Kurier am Sonntag newspaper in an excerpt made available on Saturday.
>
> She said a ban on smoking in cars was urgently needed even if it would represent an invasion of privacy. 'We've got to ask ourselves if traffic safety and health protection should not take precedence. Smoke fumes inside a car are many times higher than in other more open areas.'
>
> Germany has moved slower than most of the rest of the European Union to restrict smoking, and German bars and restaurants are often filled with smokers—

as members would know if they have travelled to Germany—

> But Baetzing said the government was committed to protecting non-smokers. 'In Germany we can no longer afford to ignore the dangers of second-hand smoke,' she said, adding that it was up to the 16 federal states—

as they call them in Germany—

> to take a tougher stance. The states are currently examining placing some restrictions on smoking in restaurants.

I might just digress for a moment to say that I remain disturbed at the number of people who still talk on their mobile phone while driving a car. That, too, is a significant safety risk for both people within the car and other road users.

I would like to raise a question to the minister for her consideration when she gives her final address on the bill in relation to the definition of 'motor vehicle'. It is a legalese type question, but Family First thinks it is relevant to the discussion because we know what happens in the courts once bills become law. In the past the term 'motor vehicle' has been widely interpreted so long as a motor is propelling the vehicle. The bill makes it an offence to smoke in a vehicle. Clearly, the concern is about passive smoking and the targeted evil is the smoking in an enclosed space. Why do I ask this question? Well, the bill uses the Motor Vehicles Act definition of motor vehicle and that definition extends to all motor propelled vehicles. Some of those vehicles do not have enclosed passenger compartments and I am not clear about the minister's intention in this regard. For example, does the bill include smoking on a motorcycle? One might assume not, but one can imagine what the lawyers will do with it if they get hold of it in the courts system. We believe a statement of the minister's intent on this matter would be helpful.

I also ask the minister to update the council on her attendance at the Ministerial Council on Drug Strategy on 15 December last year. The reason I ask is that the Hon. Christopher Pyne MP (Parliamentary Secretary to the Minister for Health and Ageing) issued a press release on 28 November last year which states:

> . . . smoking in a confined space, such as a car, is particularly harmful and it is important to limit the exposure of children to this danger. . . children exposed to passive smoking are more likely to experience such serious illnesses as pneumonia, middle ear infections and asthma attacks. . . Every week, on average, someone under the age of 15 dies from a tobacco-related cause. . . someone dies from the effects of passive smoking every second or third day—that is five people every fortnight.

A press release was issued to congratulate Tasmanian Senator Barnett for proposing this kind of reform, and the Hon. Mr Pyne said he would be raising the issue of smoking in cars at the ministerial council in mid-December, to which I have referred and which the minister attended. Again, I ask the minister to update the council on the attitude of other ministers across Australia on the issue of smoking in cars. I conclude by indicating Family First's support for the second reading of this bill. I trust that I have not placed too onerous a task on the minister in terms of providing those answers to us. Family First supports this bill in principle.

The Hon. R.I. LUCAS (Leader of the Opposition): I rise to speak briefly on the legislation. As the Hon. Michelle Lensink has indicated, the Liberal Party is not opposing the legislation—and she has given the reasons for that. For the past 26 or 27 years we have seen unrelenting attacks on cigarette smoking from a particular perspective, and we have seen bans on advertising promotion, now bans on smoking in cars and in a number of public places, and so on—I will not go through the whole list. We have seen a comprehensive attack on smoking.

I want to put on the record that back in the early 1980s L. Drew from the commonwealth Department of Health produced a paper entitled 'Death and drug use 1969 to 1980'. Without going through the detail of that, he estimated that 16 000 people died as a result of cigarette smoking in Australia in 1980. I highlight that, after 27 years of restrictions on advertising and public smoking etc., the Cancer Council (on its website) estimates that 19 000 people are dying each and every year as a result of cigarette smoking. After 27 years of the sorts of attacks which we see in this legislation and which we have seen over the past 20 years, we have a worsening of the situation in terms of the total number of deaths attributable to the smoking of tobacco.

On the other hand—and this is not the time to do it; I do not want to delay the council—if one looks at the success of road safety campaigns in that same period from the mid-1980s, over a period of 20 years road deaths have dropped from somewhere between 200 and 300 in South Australia to just over 100 in the past year. We have had extraordinary success in terms of what we have done in relation to road safety. However, what we as a parliament and the community have done in relation to cigarette smoking—well intentioned and tokenistic (however you want to describe it) for the past 27 years—on the figures of the Cancer Council has been singularly unsuccessful. I remind members that there were 16 000 deaths in 1980 and the Cancer Council now indicates there are 19 000 deaths per year.

In supporting the comments of the Hon. Michelle Lensink, as I have on occasions in the past, I make the comment that some pieces of legislation make people feel good, because they believe that they will have an impact. As the shadow minister for police, having talked to police officers about how they believe this legislation will be policed and implemented, I share the concerns of the Hon. Michelle Lensink, and I will be interested to see the reports over the next five years. I make the general point that, whatever it is that governments have been doing for the past 27 years, if the Cancer Council is right and another 3 000 people a year are dying from smoking tobacco than was the case 27 years ago before all these restrictions on advertising and everything else were introduced, it has been singularly unsuccessful. I do not have

an easy solution. I think much greater emphasis on education will be a part of any solution. Obviously, it needs to be different. Somehow, campaigns on road safety (in terms of their impact) have worked but, thus far, what we have been doing in this area has been singularly unsuccessful.

The Hon. R.P. WORTLEY secured the adjournment of the debate.

SUMMARY OFFENCES (GATECRASHERS AT PARTIES) AMENDMENT BILL

The House of Assembly agreed to the amendments made by the Legislative Council without any amendment.

CRIMINAL LAW CONSOLIDATION (DRINK SPIKING) AMENDMENT BILL

The House of Assembly agreed to the amendments made by the Legislative Council without any amendment.

ADJOURNMENT

At 6.16 p.m. the council adjourned until Wednesday 21 February at 2.15 p.m.