LEGISLATIVE COUNCIL

Thursday 27 May 2004

The PRESIDENT (Hon. R.R. Roberts) took the chair at 11 a.m. and read prayers.

STANDING ORDERS SUSPENSION

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I move:

That standing orders be so far suspended as to enable the tabling of papers, petitions and question time to be taken into consideration at 2.15 p.m.

Motion carried.

MEDICAL PRACTICE BILL

Second reading.

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I move:

That this bill be now read a second time.

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

Leave granted.

The *Medical Practice Bill 2004* will replace the *Medical Practitioners Act 1983*. It is 21 years since the Medical Practitioners Act came into force and there have been significant changes in both medical practice and in the broader society during that time. This Bill, which has as its primary aim the protection of the health and safety of the public, will modernise the regulation of the medical profession in South Australia.

In introducing this Bill I acknowledge the role played by my predecessor, the Hon Dean Brown MP and his staff in the development of this legislation. Members may recall that the *Medical Practice Bill 2001* was introduced into the House of Assembly in May 2001 but lapsed when the election was called. This Bill which I am introducing is substantively the same as that introduced by the former Minister. At the time I was supportive of the Bill and recognised the need for the 1983 Act to be revamped to accommodate the many changes which have occurred over the previous years.

The Medical Board of South Australia has identified the deficiencies of the current legislation for some time now and has been very supportive of new legislation to address the problems with the Act. The Board recognises that the world has changed and that the way in which we regulate professional practice has to move with the times.

We live in a world which is more demanding of its professionals than in the past. Twenty years ago medical practitioners, whether they were General Practitioners or Specialists, were highly respected members of the community held in the esteem reserved at the time for bank managers and others whose integrity was unchallenged. In the twenty first century, where the forces of the free market dominate many aspects of our lives, consumers are demanding a different relationship with professionals. They do not want a relationship based on a power differential where the professional has all the power and answers and the consumer is the passive and grateful recipient of their services. Consumers today want a service based on a partnership model of care where both the medical practitioner and the consumer are active participants in that care.

Consumers are also more informed about medical matters, helped in part by the access to information which the internet provides. Most consumers now have access to a wide range of information which they often take along with them when they visit their doctors. This can of course be a two edged sword for medical practitioners. On the one hand, it means that consumers may be better educated about particular medical conditions, but it also means that there is more self-diagnosis going on in the community which can be dangerous. I raise this matter only because it demonstrates that the consumer of today is vastly different in their expectations of medical practitioners than the consumer of 20 years ago.

Our standards in regard to transparency and accountability have also changed and are now much more explicit than in the past. The *Statutes Amendment (Honesty and Accountability in Government) Act 2003*, which was recently assented to, will provide a clear framework for the operation of the public sector, including the Medical Board of South Australia and other professional boards.

While consumers have higher expectations of their medical practitioners than they did in the past, and Governments have higher expectations of all professionals and those who occupy public office, we as a society have increasing expectations of the health system as a whole. The Generational Health Review undertaken by John Menadue revealed that there are significant pressures on the South Australian health system and concluded that the current system is not sustainable. Without significant reform the health system, and primarily hospitals, will continue to absorb increasing State resources.

Turning the health system around so that we can ensure a higher proportion of resources goes to primary health care will only be achieved with the cooperation of the medical profession, and in particular general practitioners. GPs will play a key role as members of the proposed primary health care networks. These networks will involve a range of primary health care providers agreeing to work together in an integrated and coordinated way to ensure access to comprehensive consumer focussed primary health care services for a defined geographical population. They will be responsible for providing holistic care to consumers.

Networks will have service targets for improving primary health care service access to at risk populations and for addressing health inequalities. They will be linked through technology and information systems and develop common systems and processes, in particular for referral. GPs will be key providers and it will be a requirement for Networks to have support from the local Division of General Practice.

Partnerships between the Government and the medical profession, and the medical profession and their patients, will therefore provide the basis for the health system of the future. The *Medical Practice Bill 2004* is an important part of the functioning of the broader health system. The philosophy underpinning the Bill emphasises the need for transparency and accountability and is described by the principle that not only should justice be done, but it must be seen to be done.

While legislation provides the framework, it is the actual administration of the legislation which becomes critical to achieving greater transparency and accountability. We cannot legislate for every conceivable situation which may arise. What we can expect however is that the spirit of the legislation will permeate all the activities of the Medical Board of South Australia. I am very pleased to be able to report that staff of the Medical Board and the Health Consumers Alliance of South Australia have been meeting to discuss how the complaints processes administered by the Medical Board can be improved to make them more consumer focussed, open and transparent. It is this type of partnership which needs to be encouraged.

I have previously acknowledged the crucial role that my predecessor, the Hon Dean Brown MP has played in the development of this legislation. While the Bill you have before you today is fundamentally similar to the Bill the former Minister introduced, I have made some changes and I would now like to discuss these.

Firstly, I have removed the infection control measures contained in the previous Bill after consultation with the key stakeholders.

Under the provisions of the previous Bill, individual medical practitioners and their treating doctors would have had a responsibility to report to the Medical Board when they had a prescribed communicable infection. I have removed this requirement as it is not considered necessary for ensuring that medical practitioners are not placing their patients at risk.

However, clause 4 of this Bill requires that where a determination is made of a person's fitness to provide medical treatment, regard is had to the person's the ability to provide treatment without endangering a patient's health or safety. This can include consideration of communicable infections.

This provision recognises that there is a considerable difference between a surgeon with a prescribed communicable disease such as Hepatitis C or HIV, and a psychiatrist with a similar disease in relation to the danger they may present to their patients.

This approach was agreed to by all the major medical and infection control stakeholders and is in line with the way in which these matters are handled in other jurisdictions, and across the world.

I have removed any reference to the Australian Medical Association from the Bill. I indicated in the previous debate that my preference was to have two members of the Medical Board directly elected by all eligible medical practitioners rather than one elected and one nominated by the AMA. My approach is consistent with the approach adopted in regard to the *Nurses Act 1999* and the *Dental Practice Act 2001* where no particular association is privileged by being specifically named in the Act. This is the approach I have adopted with this Bill. I do not expect the AMA to be happy with this change but I do expect them to understand my reasons for it. It is not a diminution of the role of the AMA rather it places all organisations which may wish to represent the interests of medical practitioners on a level playing field.

Additionally I have introduced a provision that will restrict the length of time which any one member of the Medical Board can serve to three consecutive three-year terms. This is to ensure that the board has the benefit of fresh thinking. It will not restrict a person's capacity to serve on the Board at a later time but it does mean that after three terms or nine years they will have to have a break.

I have also made some changes to the process used by the Board in hearing complaints to ensure that the person with the complaint will always be involved in the proceedings and has a right to this. As the previous Bill was drafted, only a party to the proceedings had a right to be present during proceedings. Most complaints are taken to the Board by the Registrar acting on behalf of the complainant. Complainants do not usually take their own case to the Board for fear of having costs awarded against them. Because they are not a party to the proceedings they do not legally have a right to be present during proceedings. This is obviously an unsatisfactory situation and I have had the relevant provisions of the Bill redrafted to provide a right for the complainant to be present at the hearing of the proceedings. This ensures that the proceedings are transparent from the perspective of the person with the complaint.

In the interests of protecting the public I have included a number of provisions which are concerned with medical services providers. Firstly, the Medical Board will have the power to develop a code of practice for medical services providers. This is to ensure that providers offer quality, safe medical services. The systems that providers establish to support the work of their medical practitioners is a critical component of the overall service provided to a consumer. If the administrative systems are not efficient and effective the result can be less than optimal for the consumer. Test results which go astray or lack of attention to equipment are examples of the sorts of things which can undermine the provision of a quality service.

Any codes developed by the Medical Board will need to be approved by me. This is to ensure that codes do not contain measures which can be used to restrict competition but rather, focus on public protection. In addition, medical services providers will be required to have a suitable range and level of insurance cover. Providers of medical services and their employees may also become the subject of disciplinary proceedings if they act in a manner which would be unprofessional if they were a registered person, that is, a medical practitioner.

This range of measures should go some way towards allaying the fear many people have of corporatised medicine. I have aimed with this Bill to find a balance between the interests of the free market and service providers, the medical profession and the public. This is a fine balancing act. Where these interests are clearly in conflict I have opted for measures which protect the public interest as this is the basis of the philosophy on which the regulation of the medical and other professions is based.

I believe this Bill will provide a much improved system for regulating the medical profession in South Australia and I commend it to all members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

This clause defines key terms used in the measure.

4—Medical fitness to provide medical treatment

This clause provides that in making a determination as to a person's medical fitness to provide medical treatment, regard must be given to the question of whether the person is able to provide treatment personally to a patient without endangering the patient's health or safety.

Part 2—Medical Board of South Australia

Division 1—Establishment of Board

5—Establishment of Board

This clause establishes the Medical Board of South Australia as a body corporate with perpetual succession, a common seal, the capacity to litigate in its corporate name and all the powers of a natural person capable of being exercised by a body corporate.

Division 2—Board's membership

6—Composition of Board

This clause provides for the Board to consist of 12 members appointed by the Governor, empowers the Governor to appoint deputy members and requires at least 3 members of the Board nominated by the Minister to be women and at least 3 to be men.

7—Terms and conditions of membership

This clause provides for members of the Board to be appointed for a term not exceeding 3 years and to be eligible for re-appointment on expiry of a term of appointment. However, a member of the Board may not hold office for consecutive terms that exceed 9 years in total. The clause sets out the circumstances in which a member's office becomes vacant and the grounds on which the Governor may remove a member from office. It allows members whose terms have expired to continue to act as members to hear part-heard disciplinary proceedings under Part 5.

8—Presiding member and deputy

This clause requires the Minister, after consultation with the Board, to appoint medical practitioner members of the Board to be the presiding member and deputy presiding member of the Board.

9—Vacancies or defects in appointment of members

This clause ensures acts and proceedings of the Board are not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

10—Remuneration

This clause entitles a member of the Board to remuneration, allowances and expenses determined by the Governor.

Division 3—Registrar and staff of Board

11—Registrar of Board

This clause provides for the appointment of a Registrar by the Board on terms and conditions determined by the Board.

12—Other staff of Board

This clause provides for the Board to have such other staff as it thinks necessary for the proper performance of its functions.

Division 4—General functions and powers

13—Functions of Board

This clause sets out the functions of the Board and requires it to exercise its functions with the object of protecting the health and safety of the public by achieving and maintaining high professional standards both of competence and conduct in the provision of medical treatment in South Australia.

14—Committees

This clause empowers the Board to establish committees to advise the Board or the Registrar or to assist the Board to carry out its functions.

15—Delegations

This clause empowers the Board to delegate its functions or powers to a member of the Board, the Registrar, an employee of the Board or a committee established by the Board.

Division 5—Board's procedures

16—Board's procedures

This clause deals with matters relating to the Board's procedures such as the quorum at meetings, the chairing of meetings, voting rights, the holding of conferences by telephone and other electronic means and the keeping of minutes.

17—Conflict of interest etc under Public Sector Management Act

This clause provides that a member of the Board will not be taken to have a direct or indirect interest in a matter for the purposes of the *Public Sector Management Act 1995* by reason only of the fact that the member has an interest in the matter that is shared in common with the public, medical practitioners generally or a substantial section of the public or of medical practitioners in this State.

18—Powers of Board in relation to witnesses etc

This clause sets out the powers of the Board to summons witnesses and require the production of documents and other evidence in proceedings before the Board.

19—Principles governing proceedings

This clause provides that the Board is not bound by the rules of evidence and requires it to act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms. It requires the Board to keep all parties to proceedings before the Board properly informed about the progress and outcome of the proceedings.

20—Representation at proceedings before Board

This clause entitles a party to proceedings before the Board to be represented at the hearing of those proceedings.

21—Costs

This clause empowers the Board to award costs against a party to proceedings before the Board and provides for the taxation of costs by a Master of the District Court in the event that a party is dissatisfied with the amount of costs fixed by the Board.

Division 6—Accounts, audit and annual report

22—Accounts and audit

This clause requires the Board to keep proper accounting records in relation to its financial affairs, to have annual statements of account prepared in respect of each financial year and to have the accounts audited annually by an auditor approved by the Auditor-General and appointed by the Board.

23—Annual report

This clause requires the Board to prepare an annual report for the Minister and requires the Minister to table the report in Parliament.

Part 3—Medical Professional Conduct Tribunal

24—Continuation of Tribunal

This clause continues the Medical Practitioners Professional Conduct Tribunal in existence as the Medical Professional Conduct Tribunal.

25—Composition of Tribunal

This clause provides for the Tribunal to consist of 13 members, requires at least 4 appointed members of the Tribunal to be women and at least 4 to be men, and empowers the Governor to appoint deputy members.

26—Terms and conditions of appointed members

This clause provides for appointed members of the Tribunal to be appointed for a term not exceeding 3 years and to be eligible for re-appointment on expiry of a term of appointment. It sets out the circumstances in which an appointed member's office becomes vacant and the grounds on which the Governor may remove a member from office. It allows appointed members whose terms have expired to continue to act as members to hear part-heard disciplinary proceedings under Part 5.

27—Vacancies or defects in appointment of members

This clause ensures an act or proceeding of the Tribunal is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

28—Remuneration

This clause entitles a member of the Tribunal to remuneration, allowances and expenses determined by the Governor.

29—Registrar of Tribunal

This clause provides that there will be a Registrar of the Tribunal. The Registrar will be the person for the time being holding or acting in the office of Registrar of the District Court

30—Protection from personal liability

This clause protects members of the Tribunal and the Registrar of the Tribunal from personal liability in good faith for an act or omission in the performance or purported performance of functions or duties under the measure. A civil liability will instead lie against the Crown.

Part 4—Registration

Division 1—Registers

31—Registers

This clause requires the Registrar to keep certain registers and specifies the information required to be included in each register. It also requires the registers to be kept available for inspection by the public and permits access to be made available by electronic means. The clause requires registered persons to notify a change of address within 1 month of the change. A maximum penalty of $250 is fixed for non-compliance.

32—Authority conferred by registration on register

This clause sets out the kind of medical treatment that registration on each particular register authorises a registered person to provide.

Division 2—Registration

33—Registration of natural persons on general or specialist register

This clause provides for the full and limited registration of natural persons on the general register or the specialist register.

34—Registration of medical students

This clause requires persons to register as medical students before undertaking an undergraduate (or prescribed post-graduate) course of medical study and provides for full or limited registration of medical students.

35—Application for registration

This clause deals with applications for registration. It empowers the Board to require applicants to submit medical reports or other evidence of medical fitness to provide medical treatment or to obtain additional qualifications or experience before determining an application.

36—Removal from register or specialty

This clause requires the Registrar to remove a person from a register or a specialty on application by the person or in certain specified circumstances (for example, suspension or cancellation of the person's registration under this measure).

37—Reinstatement on register or in specialty

This clause makes provision for reinstatement of a person on a register or in a specialty. It empowers the Board to require applicants for reinstatement to submit medical reports or other evidence of medical fitness to provide medical treatment or to obtain additional qualifications or experience before determining an application.

38—Fees and returns

This clause deals with the payment of registration, reinstatement and annual practice fees, and requires registered persons to furnish the Board with an annual return in relation to their medical practice, continuing medical education and other matters relevant to their registration under the measure. It empowers the Board to remove from a register a person who fails to pay the annual practice fee or furnish the required return.

Division 3—Special provisions relating to medical services providers

39—Information to be given to Board by medical services providers

This clause requires a medical services provider to notify the Board of the provider's name and address, the name and address of the medical practitioners through the instrumentality of whom the provider is providing medical treatment and other information. It also requires the provider to notify the Board of any change in particulars required to be given to the Board and makes it an offence to contravene or fail to comply with the clause. A maximum penalty of $10 000 is fixed. The Board is required to keep a record of information provided to the Board under this clause available for inspection at the office of the Board and may make it available to the public electronically.

Division 4—Restrictions relating to the provision of medical treatment

40—Illegal holding out as registered person

This clause makes it an offence for a person to hold himself or herself out as a registered person of a particular class or permit another person to do so unless registered on the appropriate register. It also makes it an offence for a person to hold out another as a registered person of a particular class unless the other person is registered on the appropriate register. In both cases a maximum penalty of $50 000 or imprisonment for 6 months is fixed.

41—Illegal holding out concerning limitations or conditions

This clause makes it an offence for a person whose registration is restricted, limited or conditional to hold himself or herself out, or permit another person to hold him or her out, as having registration that is unrestricted or not subject to a limitation or condition. It also makes it an offence for a person to hold out another whose registration is restricted, limited or conditional as having registration that is unrestricted or not subject to a limitation or condition. In each

case a maximum penalty of $50 000 or imprisonment for 6 months is fixed.

42—Use of certain titles or descriptions prohibited

This clause creates a number of offences prohibiting a person who is not appropriately registered from using certain words or their derivatives to describe himself or herself or services that they provide, or in the course of advertising or promoting services that they provide. In each case a maximum penalty of $50 000 is fixed.

43—Restrictions on provision of medical treatment by unqualified persons

This clause makes it an offence for a person to provide medical treatment of a prescribed kind (and prevents recovery of a fee or charge for medical treatment provided by the person) unless, at the time the treatment was provided, the person was a qualified person or provided the treatment through the instrumentality of a qualified person. A maximum penalty of $50 000 or imprisonment for six months is fixed for the offence. However, these provisions do not apply to medical treatment provided by an unqualified person in prescribed circumstances. In addition, the Governor is empowered, by proclamation, to grant an exemption if of the opinion that good reason exists for doing so in the particular circumstances of a case. The clause makes it an offence punishable by a maximum fine of $50 000 to contravene or fail to comply with a condition of an exemption.

44—Board's approval required where medical practitioner or medical student has not practised for 3 years

This clause prohibits a registered person who has not provided medical treatment of a kind authorised by their registration for 3 years or more from providing such treatment for fee or reward without the prior approval of the Board and fixes a maximum penalty of $20 000. The Board is empowered to require an applicant for approval to obtain qualifications and experience and to impose conditions on the person's registration.

Part 5—Investigations and proceedings

Division 1—Preliminary

45—Interpretation

This clause provides that in this Part the terms ***medical services provider***, ***occupier of a position of authority*** and ***registered person*** includes a person who is not but who was, at the relevant time, a medical services provider, occupier of a position of authority or a registered person.

46—Cause for disciplinary action

This clause specifies what constitutes proper cause for disciplinary action against a registered person, a medical services provider or a person occupying a position of authority in a corporate or trustee medical services provider.

Division 2—Investigations

47—Powers of inspectors

This clause sets out the powers of an inspector to investigate certain matters.

48—Offence to hinder etc inspector

This clause makes it an offence for a person to hinder an inspector, use certain language to an inspector, refuse or fail to comply with a requirement of an inspector, refuse or fail to answer questions to the best of the person's knowledge, information or belief, or falsely represent that the person is an inspector. A maximum penalty of $10 000 is fixed.

Division 3—Proceedings before Board

49—Obligation to report medical unfitness of medical practitioner or medical student

This clause requires certain classes of persons to report to the Board if of the opinion that a medical practitioner or medical student is or may be medically unfit to provide medical treatment. A maximum penalty of $10 000 is fixed for non-compliance. The Board must cause a report to be investigated.

50—Medical fitness of medical practitioner or medical student

This clause empowers the Board to suspend the registration of a medical practitioner or medical student, impose conditions on registration restricting the right to provide medical treatment or other conditions requiring the person to undergo counselling or treatment, or to enter into any other undertaking if, on application by certain persons or after an investigation under clause 49, and after due inquiry, the Board is satisfied that the practitioner or student is medically unfit to provide medical treatment and that it is desirable in the public interest to take such action.

51—Inquiries by Board as to matters constituting grounds for disciplinary action

This clause requires the Board to inquire into a complaint relating to matters alleged to constitute grounds for disciplinary action against a person unless the Board considers the complaint to be frivolous or vexatious or lays a complaint before the Tribunal relating to such matters. The Board must, before conducting an inquiry, give the respondent an opportunity to elect to have the matter dealt with by the Tribunal and, if the respondent so elects, the Board must lay a complaint before the Tribunal. If after conducting an inquiry, the Board is satisfied that there is proper cause for taking disciplinary action, the Board can censure the person, order the person to pay a fine of up to $1 000, impose conditions on the person's right to provide medical treatment, or suspend the person's registration for a period not exceeding 1 month. If a person fails to pay a fine imposed by the Board, the Board may remove their name from the appropriate register.

52—Variation or revocation of conditions imposed by Board

This clause empowers the Board, on application by a registered person, to vary or revoke a condition imposed by the Board on his or her registration.

53—Suspension of registration of non-residents

This clause empowers the Board, on application by the Registrar, to suspend until further order the registration of a medical practitioner who has not resided in Australia for the period of 12 months immediately preceding the application.

54—Constitution of Board for purpose of proceedings

This clause sets out how the Board is to be constituted for the purpose of hearing and determining proceedings under Part 5.

55—Provisions as to proceedings before Board

This clause deals with the conduct of proceedings by the Board under Part 5.

Division 4—Proceedings before Tribunal

56—Constitution of Tribunal for purpose of proceedings

This clause sets out how the Tribunal is to be constituted for the purpose of hearing and determining proceedings under Part 5.

57—Inquiries by Tribunal as to matters constituting grounds for disciplinary action

This clause requires the Tribunal to inquire into a complaint relating to matters alleged to constitute grounds for disciplinary action against a person unless the Tribunal considers the complaint to be frivolous or vexatious.

If, after conducting an inquiry, the Tribunal is satisfied that there is proper cause for taking disciplinary action, the Tribunal can censure the person, order the person to pay a fine of up to $20 000 or prohibit the person from carrying on business as a medical services provider or from occupying a position of authority in a corporate or trustee medical services provider. If the person is registered, the Tribunal may impose conditions on the person's right to provide medical treatment, suspend the person's registration for a period not exceeding 1 year, cancel the person's registration, or disqualify the person from being registered.

A disqualification or prohibition may apply permanently, for a specified period, until the fulfilment of specified conditions or under further order, and may have effect at a specified future time. Conditions may be imposed as to the conduct of the person or the person's business until that time.

If a person fails to pay a fine imposed by the Tribunal, the Board may remove their name from the appropriate register.

58—Variation or revocation of conditions imposed by Tribunal

This clause empowers the Tribunal, on application by a registered person, to vary or revoke a condition imposed by the Tribunal on his or her registration.

59—Provisions as to proceedings before Tribunal

This clause deals with the conduct of proceedings by the Tribunal under Part 5.

60—Powers of Tribunal

This clause sets out the powers of the Tribunal to summons witnesses and require the production of documents and other evidence in proceedings before the Tribunal.

61—Costs
This clause empowers the Tribunal to award costs against a party to proceedings before the Tribunal.
62—Contravention of prohibition order
This clause makes it an offence to contravene an order of the Tribunal or to contravene or fail to comply with a condition imposed by the Tribunal. A maximum penalty of $75 000 or imprisonment for 6 months is fixed.
63—Register of prohibition orders
This clause requires the Registrar of the Tribunal to keep a register of prohibition orders made by the Tribunal. The register must be kept available for inspection at the office of the Registrar and may be made available to the public electronically.
64—Power of Tribunal to make rules
This clause empowers the Tribunal constituted of the President and two other members selected by the presiding member to make rules regulating its practice and procedure or making any other provision as may be necessary or expedient to carry into effect the provisions of this Part relating to the Tribunal.
Part 6—Appeals
65—Right of appeal to Supreme Court
This clause provides a right of appeal to the Supreme Court against certain acts and decisions of the Board or Tribunal.
66—Operation of order may be suspended
This clause empowers the Court to suspend the operation of an order made by the Board or Tribunal where an appeal is instituted or intended to be instituted.
67—Variation or revocation of conditions imposed by Court
This clause empowers the Supreme Court, on application by a registered person, to vary or revoke a condition imposed by the Court on his or her registration.
Part 7—Miscellaneous
68—Interpretation
This clause defines terms used in Part 7.
69—Offence to contravene conditions of registration
This clause makes it an offence for a person to contravene or fail to comply with a condition of his or her registration and fixes a maximum penalty of $75 000 or imprisonment for six months.
70—Offence to practise medicine while deregistered
This clause makes it an offence for a person who has been removed from a register and not reinstated to provide medical treatment for fee or reward. It fixes a maximum penalty of $75 000 or imprisonment for six months. However, it does not apply in relation to a person exempted under clause 43 and providing medical treatment in accordance with the exemption.
71—Medical practitioner etc must declare interest in prescribed business
This clause requires a medical practitioner or prescribed relative of a medical practitioner who has an interest in a prescribed business to give the Board notice of the interest and of any change in such an interest. It fixes a maximum penalty of $20 000 for non-compliance. It also prohibits a medical practitioner from referring a patient to, or recommending that a patient use, a health service provided by the business and from prescribing, or recommending that a patient use, a health product manufactured, sold or supplied by the business unless the medical practitioner has informed the patient in writing of his or her interest or that of his or her prescribed relative. A maximum penalty of $20 000 is fixed for a contravention. However, it is a defence to a charge of an offence or unprofessional conduct for a medical practitioner to prove that he or she did not know and could not reasonably have been expected to know that a prescribed relative had an interest in the prescribed business to which the referral, recommendation or prescription that is the subject of the proceedings relates.
72—Offence to give, offer or accept benefit for referral or recommendation
This clause makes it an offence—

(a) for any person to give or offer to give a medical practitioner or prescribed relative of a practitioner a benefit as an inducement, consideration or reward for the practitioner referring, recommending or prescribing a health service or health product provided, sold, etc. by the person;

(b) for a medical practitioner or prescribed relative of a practitioner to accept from any person a benefit offered or given as a inducement, consideration or reward for such a referral, recommendation or prescription.

In each case a maximum penalty of $75 000 is fixed for a contravention.
73—Improper directions to medical practitioners or medical students
This clause makes it an offence for a person who provides medical treatment through the instrumentality of a medical practitioner or medical student to direct or pressure the practitioner or student to engage in unprofessional conduct. It also makes it an offence for a person occupying a position of authority in a corporate or trustee medical services to direct or pressure a medical practitioner or medical student through whom the provider provides medical treatment to engage in unprofessional conduct. In each case a maximum penalty of $75 000 is fixed.
74—Procurement of registration by fraud
This clause makes it an offence for a person to fraudulently or dishonestly procure registration or reinstatement of registration (whether for himself or herself or another person) and fixes a maximum penalty of $20 000 or imprisonment for 6 months.
75—Statutory declarations
This clause empowers the Board to require information provided to the Board to be verified by statutory declaration.
76—False or misleading statement
This clause makes it an offence for a person to make a false or misleading statement in a material particular (whether by reason of inclusion or omission of any particular) in information provided under the measure and fixes a maximum penalty of $20 000.
77—Medical practitioner or medical student must report his or her medical unfitness to Board
This clause requires a medical practitioner or medical student who is aware that he or she is or may be medically unfit to provide medical treatment to forthwith give written notice of that fact of the Board and fixes a maximum penalty of $10 000 for non-compliance.
78—Medical School must report cessation of student's enrolment
This clause requires the Dean or Acting Dean of a Medical School to give the Board written notice that a medical student has ceased to be enrolled in an undergraduate course of study at the School and fixes a maximum penalty of $5 000 for non-compliance.
79—Registered persons and medical services providers to be indemnified against loss
This clause prohibits registered persons and medical services providers from providing medical treatment for fee or reward unless insured or indemnified in a manner and to an extent approved by the Board against civil liabilities that might be incurred by the person or provider in connection with the provision of such treatment. It fixes a maximum penalty of $10 000 and empowers the Board to exempt persons or classes of persons from the requirement to be insured or indemnified.
80—Information relating to claim against registered person to be provided
This clause requires a registered person to provide the Board with prescribed information about any claim made against the registered person or another person for alleged negligence committed by the registered person in the course of providing medical treatment. The clause fixes a maximum penalty of $10 000 for non-compliance.
81—Victimisation
This clause prohibits a person from victimising another person (the victim) on the ground, or substantially on the ground, that the victim has disclosed or intends to disclose information, or has made or intends to make an allegation, that has given rise or could give rise to proceedings against the person under this measure. Victimisation is the causing of detriment including injury, damage or loss, intimidation or harassment, threats of reprisals, or discrimination, disadvantage or adverse treatment in relation to the victim's employment or business. An act of victimisation may be dealt

with as a tort or as if it were an act of victimisation under the *Equal Opportunity Act 1984*.

82—Self-incrimination

This clause provides that if a person is required to provide information or to produce a document, record or equipment under this measure and the information, document, record or equipment would tend to incriminate the person or make the person liable to a penalty, the person must nevertheless provide the information or produce the document, record or equipment, but the information, document, record or equipment so provided or produced will not be admissible in evidence against the person in proceedings for an offence, other than an offence against this measure or any other Act relating to the provision of false or misleading information.

83—Punishment of conduct that constitutes an offence

This clause provides that if conduct constitutes both an offence against the measure and grounds for disciplinary action under the measure, the taking of disciplinary action is not a bar to conviction and punishment for the offence, and conviction and punishment for the offence is not a bar to disciplinary action.

84—Vicarious liability for offences

This clause provides that if a corporate or trustee medical services provider or other body corporate is guilty of an offence against this measure, each person occupying a position of authority in the provider or body corporate is guilty of an offence and liable to the same penalty as is prescribed for the principal offence unless it is proved that the person could not, by the exercise of reasonable care, have prevented the commission of the principal offence.

85—Application of fines

This clause provides that fines imposed for offences against the measure must be paid to the Board.

86—Board may require medical examination or report

This clause empowers the Board to require a medical practitioner or medical student or person applying for registration or reinstatement of registration as such to submit to an examination by a health professional or provide a medical report from a health professional, including an examination or report that will require the person to undergo a medically invasive procedure. If the person fails to comply the Board can suspend the person's registration until further order.

87—Ministerial review of decisions relating to courses

This clause gives a provider of a course of education or training the right to apply to the Minister for a review of a decision of the Board to refuse to approve the course for the purposes of the measure or to revoke the approval of a course.

88—Confidentiality

This clause makes it an offence for a person engaged or formerly engaged in the administration of the measure or the repealed Act (the *Medical Practitioners Act 1983*) to divulge or communicate personal information obtained (whether by that person or otherwise) in the course of official duties except—

(a) as required or authorised by or under this measure or any other Act or law; or

(b) with the consent of the person to whom the information relates; or

(c) in connection with the administration of this measure or the repealed Act; or

(d) to an authority responsible under the law of a place outside this State for the registration or licensing of persons who provide medical treatment, where the information is required for the proper administration of that law; or

(e) to an agency or instrumentality of this State, the Commonwealth or another State or a Territory of the Commonwealth for the purposes of the proper performance of its functions.

However, the clause does not prevent disclosure of statistical or other data that could not reasonably be expected to lead to the identification of any person to whom it relates. Personal information that has been disclosed for a particular purpose must not be used for any other purpose by the person to whom it was disclosed or any other person who gains access to the information (whether properly or improperly and directly or indirectly) as a result of that disclosure. A maximum penalty of $10 000 is fixed for a contravention of the clause.

89—Service

This clause sets out the methods by which notices and other documents may be served.

90—Evidentiary provision

This clause provides evidentiary aids for the purposes of proceedings for offences and for proceedings under Part 5.

91—Regulations

This clause empowers the Governor to make regulations.

Schedule 1—Repeal and transitional provisions

This Schedule repeals the *Medical Practitioners Act 1983* and makes transitional provisions with respect to the Board, the Tribunal, registrations and other matters.

The Hon. R.I. LUCAS secured the adjournment of the debate.

STATE PROCUREMENT BILL

Second reading.

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I move:

That this bill be now read a second time.

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

Leave granted.

It gives me great pleasure to introduce the Government's *State Procurement Bill 2003*. This Bill is a key plank in the Government's 10 Point Plan for Honesty and Accountability. The Government took the following policy to the election:

> "We will also review the State Supply Act, together with other legislation, in consultation with the Auditor-General. The objective will be to modernise the legislation to take account of the increased complexity of today's relationships between the government and the private sector."

Throughout Australian jurisdictions and in Governments in other places, the role of public sector procurement and the benefits that it can deliver to government programs through increased efficiency and through the direct delivery of Government policy objectives have been recognised.

The changes that this Bill introduces will ensure that the model of an independent board working with Government remains relevant and successful in a public sector environment that has changed significantly since the State Supply Act was introduced in 1985. The changes that this Bill represents over the State Supply Act are important in ensuring that a robust framework of accountability exists and that the policies and objectives of the Government of the day are supported. The independence and integrity afforded to procurement through the oversight of a body independent of Government will be enhanced. In this way the Bill is a key plank in our commitment to be an open, honest and accountable Government.

To help illustrate the need for the changes proposed in this Bill I will briefly outline the history of the State Supply Board and public sector procurement in this State.

The *State Supply Act 1985* came into operation on 30 September 1985 and replaced the *Public Supply and Tender Act 1914*. The 1985 Act established the State Supply Board as an independent body operating at arms-length from government. The Board's key role was to achieve the objectives of the Act, with the primary focus on ongoing efficiency and effectiveness in public sector procurement of goods.

The State Supply Board oversees the State Government procurement function which until the mid 1990s was largely viewed as an administrative support function based on clerical processes and standardised procedures for the procurement of goods. Put simply, the procurement function was predominantly a centralised model, with little or no interaction with end users.

During the 1990s, Governments across Australia began to recognise that significantly improved outcomes could be achieved through the introduction of strategic practices into their procurement activities. This was designed to stimulate better management of procurement processes, and ultimately deliver savings.

Also through the 1990s governments turned to outsourcing and contracting-out. Many of these measures were poorly researched and implemented which led to poor outcomes. Outsourcing and

contracting-out caused a significant increase in the procurement of services as compared to goods. It was soon recognised that the traditional "lowest price" approach fitted uncomfortably with procurement of services and that different procurement competencies were required.

An acknowledged leader in public sector reform, in the area of procurement, is the United Kingdom. The fundamental issue identified by their experience is that procurement needs to be outcome focussed because the mere following of a process does not ensure the best possible result for the community.

As a result of the lessons learned both across Australia and in the UK, government procurement strategies now include the consideration of multiple outcomes, which include service delivery to the community and linking economic, environmental, and social priorities. Improved procurement practices have seen the development of more innovative contract arrangements, longer-term contractual periods, improved supplier arrangements, local industry development and a movement away from risk averse models to models seeking the appropriate management of risk.

It has now been five years since the first steps toward procurement reform were implemented in South Australia. This Bill provides the proper basis for further reform.

The Government believes that a Procurement Board established under statute remains the preferred mechanism as it confers power and authority on a single body to manage procurement on behalf of Government in a way that is at arms-length from Government. A single body operating at arms-length from Government delivers confidence to the community and suppliers that procurement decisions are not inappropriately influenced by the political process.

The State Supply Act was last amended in 2002 to address concerns raised by the Auditor-General regarding the State Supply Board and its role in procuring services. The previous Government had asked the State Supply Board to take a key role in the procurement of services without ensuring it had the appropriate legislative authority to do so. In Opposition, Labor strongly supported the role of an independent and expert authority having oversight of the purchasing and supply activities of government agencies.

In supporting the amendments we raised a number of concerns that public sector procurement could be better managed. This conviction led to our commitment to modernise the State Supply Act so that it takes account of the increased complexity of today's relationships between the public and private sectors.

The concerns that we raised in October 2001 included—

- that no comprehensive across-government policies and procedures (as to the conduct of procurement processes, structured and focussed on each step of in the procurement cycle process) had been developed;
- that there were insufficient institutional controls on the process of government contracting to ensure that government contracting was competitive, open, transparent and truly accountable;
- that the definition of goods and services, which enables certain activities to be placed outside the scope of the Act, could not be used to retrospectively make lawful some arrangement that was not lawful prior to the making of the legislation.

We had in mind events of the kind we saw associated with the Motorola contract where preferences and incentives were provided to Motorola to attract the establishment of the Software Centre to Adelaide, a process that involved secrecy and a departure from accepted procurement processes, exposing the former Government to allegations of partiality, favouritism, patronage and corruption.

Accordingly, we have reviewed the State Supply Act and are proposing to take the next significant step in procurement reform to ensure procurement across the public sector is undertaken in a coordinated manner consistent with best practice.

As most of us now recognise, best procurement practice is achieved by applying cost-effective purchasing approaches based on whole of life costs, including capital, maintenance, management, disposal and operating costs.

Whilst it is acknowledged that governments must ensure appropriate procurement practices are in place, it is further recognised that suppliers, as an integral part of the procurement process, also have a responsibility to contribute to government policy objectives. The proposed State Procurement Bill provides a governance framework for government procurement, and this new legislation includes an "object clause" that clearly describes that the purpose of the legislation is to advance government priorities and objectives by a system of procurement for public authorities directed towards—

- obtaining value in the expenditure of public money; and
- providing for ethical and fair treatment of participants; and
- ensuring probity, accountability and transparency in procurement operations.

A key objective of the proposed new legislation is that it will remain general rather than be specific. This provides greater flexibility for government policy to influence government procurement policies and practice. Clause 20 of the Bill strengthens the requirement that the State Procurement Board take account of government policy and clause 3 places an obligation on the Board to further the object of the legislation.

Key areas where procurement can support government policy are in the important areas of fair employment and environmental practices.

Examples of the way in which government policies may be reflected in procurement decisions include not purchasing uniforms made by producers who exploit outworkers and not purchasing goods which involve wasteful packaging.

I am confident that the provisions contained in the State Procurement Bill will also enable the public sector to continue its procurement reform program to ensure that the procurement activities of the public sector support the Government's objectives of service delivery to the community linking economic, environmental and social goals in a way that achieves true value for money. The State Procurement Bill will address our commitment to provide "Open, Honest and Accountable" government and contribute to the restoration of faith in the political process.

I commend the Bill to the House.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

3—Object of Act

This clause provides that the object of the measure is to advance government priorities and objectives by a system of procurement for public authorities directed towards—

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

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

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

The clause requires the Board and the Minister to have regard to and seek to further the object of the measure.

4—Interpretation

This clause defines key terms used in the measure.

5—Act not to apply to local government bodies and universities

This clause provides that the measure (other than clause 17) does not apply in relation to a local government body or a university.

Part 2—State Procurement Board

6—Establishment of Board

This clause establishes the State Procurement Board.

7—Composition of Board

This clause provides for the Board to consist of—

- the presiding member, being the chief executive (or his or her nominee) of the administrative unit responsible for the administration of the measure; and
- 8 members appointed by the Governor, being 4 persons who are members or officers of public authorities or prescribed public authorities and 4 persons who are not members or officers of public authorities or prescribed public authorities.

The appointed membership must include persons who together have, in the Minister's opinion, practical knowledge of, and experience or expertise in, procurement, private commerce or industry, industry development, industrial relations, information technology, risk management, environmental protection and management, community service and social inclusion.

At least 1 appointed member must be a woman and at least 1 must be a man.

8—Terms and conditions of membership

This clause sets out the terms and conditions of membership of the Board.

9—Vacancies or defects in appointment of members

This clause ensures that acts and proceedings of the Board are not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

10—Allowances and expenses

This clause entitles members of the Board to allowances and expenses determined by the Governor.

11—Staff of Board

This clause provides for the Board to have staff comprising of public servants and to make use of the services of officers of an administrative unit or public authority.

12—Functions of Board

This clause provides that the Board has the following functions:

(a) to facilitate strategic procurement by public authorities by setting the strategic direction of procurement practices across government;

(b) to develop, issue and keep under review policies, principles and guidelines relating to the procurement operations of public authorities;

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

(d) to give directions relating to the procurement operations of public authorities;

(e) to investigate and keep under review levels of compliance with the Board's procurement policies, principles, guidelines, standards and directions;

(f) to undertake, make arrangements for or otherwise facilitate or support the procurement operations of public authorities;

(g) to assist in the development and delivery of training and development courses and activities relevant to the procurement operations of public authorities;

(h) to provide advice and make recommendations to responsible Ministers and principal officers on any matters relevant to the procurement operations of public authorities;

(i) to carry out the Board's functions in relation to prescribed public authorities and any other functions assigned to the Board under the measure.

13—Committees

This clause empowers the Board to set up committees to advise it or assist it in carrying out its functions.

14—Delegations

This clause empowers the Board to delegate functions or powers to its members, committees of the Board, staff of the Board and other persons engaged in the administration of the measure.

15—Board's procedures

This clause prescribes the procedures of the Board.

16—Common seal and execution of documents

This clause requires a decision of the Board to authorise the use of the Board's common seal and the signature of two members to attest the fixing of the common seal.

Part 3—Miscellaneous

17—Undertaking or arranging procurement operations for prescribed public authorities and other bodies

This clause empowers the Board, with Ministerial approval, to undertake or make arrangements for procurement operations for a prescribed public authority or a body other than a public authority or prescribed public authority.

18—Public authorities bound by directions etc of Board and responsible Minister

This clause requires a public authority to comply with directions given by the Board or by the responsible Minister on the recommendation of the Board, and to comply with any policies, principles, guidelines or standards issued to the authority by the Board. It also requires a prescribed public authority to comply with any directions given by the responsible Minister on the advice or recommendation of the Board.

19—Responsibility of principal officers in relation to procurement operations

This clause makes the principal officer of a public authority responsible for the efficient and cost effective management of the procurement operations of the authority subject to and in accordance with the policies, principles, guidelines, standards and directions of the Board.

20—Ministerial directions to Board

This clause empowers the Minister to give general directions in writing to the Board about the performance of its functions. A direction may require the Board to take into account a particular government policy or a particular principle or matter. The Minister must, within 6 sitting days of giving a direction, table it in both Houses of Parliament. Except as provided by this clause, the Board is not subject to Ministerial control or direction.

21—Accounts and audit

This clause requires the Board must keep proper accounting records in relation to its financial affairs, to have annual statements of account prepared in respect of each financial year, and to have the accounts audited at least once in every year by the Auditor-General.

22—Annual report

This clause requires the Board to prepare an annual report, and requires the Minister to table the report in both Houses of Parliament within 14 sitting days of receipt.

23—Regulations

This clause empowers the Governor to make regulations for the purposes of the measure.

Schedule 1—Related amendment, repeal and transitional provisions

Schedule 1 repeals the *State Supply Act 1985*, amends the *Gaming Machines Act 1992* to update the reference to the Board and makes transitional provisions in relation to the Board.

The Hon. R.D. LAWSON secured the adjournment of the debate.

PITJANTJATJARA LAND RIGHTS (EXECUTIVE BOARD) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 25 May. Page 1575.)

The Hon. R.D. LAWSON: I rise to indicate the Liberal opposition's support for the rapid passage of this overdue measure. The bill was introduced into this place on Tuesday of this week. It is an important and very urgent bill. Accordingly, we are happy to accommodate the government and assist in the rapid passage of this measure. The minister's second reading explanation speaks of some concerns about the validity of the extension the executive board of the Anangu Pitjantjatjara arrogated to itself during 2003. The minister says in his explanation that 'there was some concern'. There was more than some concern: there was, indeed, grave concerns during 2003 about the desire of the board that was elected in November 2002. It was clear that it wanted to extend its term, which was entirely wrong, and it was told on a number of occasions by a number of people that it was wrong. Notwithstanding that, it chose to press ahead.

The government knew that what the executive was doing was wrong. Crown law advised the government to that effect. In a series of questions to the minister in this place, I made it clear that that was certainly the position of the opposition. It remains a deplorable fact that, notwithstanding the clear provisions of the land rights act, this executive has decided to arrogate to itself the power to extend its own term in defiance of the legislation and also not in accordance with the rights and interests of the people on the lands. It is interesting that, from correspondence and other material, the executive board—in particular, its chairman, Mr Gary Lewis, and his supporters—is still seeking to defend that position now. They are threatening to hold a demonstration in front of Parliament House next week to support their position. They are seeking the assistance of members who they believe might be sympathetic to their cause.

We have no objection to any member of the public, or any group, seeking to assert a particular position by public demonstration, by petition, or whatever. However, the fact is that this group of people, which has deprived the people on the lands of their statutory right to express a view each year about the composition of the executive, is denying to those on the lands that important franchise, a franchise conferred upon them by this parliament. We hear nonsense being spoken about the suggestion that this bill is taking away the rights of traditional owners. This bill is, in fact, asserting the rights of traditional owners and all persons on the lands to express a view, through the ballot box annually, on the composition of the executive board.

The executive board is suggesting that the elections proposed in this bill are not the Anangu way. What nonsense! These people were elected under the current act, elected in accordance with the procedures laid down, elected in the presence of not only the minister (who was standing under the shade of a nearby tree) but also in the presence and under the supervision of the State Electoral Commission. These people were very happy to be elected under that system. Once they are elected, they suddenly say, 'Elections of this kind are contrary to the Anangu way, and we don't want to have new elections.' That is an indefensible and arrogant position that they and their supporters are adopting.

It is worth pointing out that, in March this year, the government announced that it was proposed to appoint an administrator to the lands. That was undoubtedly a decisive action. It was also seen by many as very high-handed on the part of the government. Notwithstanding that it was high-handed, it was an important and decisive action. We were not happy with the grandstanding way in which the government went about it. We were not happy that the government was seeking to address what it saw as a political problem, rather than a problem on the lands, and that the government, by managing the media, was grandstanding and trying to appear to be decisive when it was not. Notwithstanding that, that was what the government did—and fair enough.

They slipped, because they appointed Jim Litster, a highly respected man, as the coordinator. The media interviewed him, and his picture was in the paper. There were high hopes that, as a former police officer, he would be able to address issues on the lands. There was a suggestion that Mr Litster would live on the lands but, within days of his appointment, he had withdrawn. The government then announced the appointment of the Hon. Bob Collins—a former federal minister and a person with a great deal of experience in the Northern Territory as a member of the Legislative Assembly and as leader of the opposition and a person with very deep connections with indigenous communities throughout Australia—to take over the role as coordinator of services on the lands.

We were concerned about one aspect of Mr Collins' appointment, namely, whether he would have the time and opportunity to familiarise himself with the issues on the lands or whether he would simply be a figurehead employed by the government to do the its bidding. However, to his credit, Mr Collins has been assiduous in the pursuit of his assignment as coordinator of services. He went to the lands recently with the minister and the Premier. He had extensive consultations with people on the lands, and he has produced a report, which was tabled in this council a couple of weeks ago.

Mr Collins has come to the parliament to brief members about the report, and I gather he has also briefed government members, as well as all other members of parliament who were interested. He has been prepared to answer questions about it. He made himself available last Friday at a brief meeting of the Aboriginal lands joint committee to answer questions and to provide additional background. Mr Collins said that he had prepared this report himself with two-fingered typing, and I think the report is an indication that more people should type their own reports. It is cogent, direct and does not pull punches, but clearly makes recommendations that Mr Collins believes should be adopted.

When the Premier tabled the report in another place, he made a ministerial statement commending it to members, indicating the government's strong support for Mr Collins and its commitment to ensuring that his task is carried out appropriately. In his report dated 23 April, Mr Collins says:

> I have had the opportunity to hold extensive discussion with Anangu residents during the course of this week of this and other matters. In Alice Springs on 19 April, I met with the Chair of the APY council, Mr Gary Lewis, Chair of APY services, Mr Murray George, Ms Bebe Ramzan and Mr Rex Tjami. The meeting lasted five hours and we discussed in detail the lack of progress of the COAG trial. The discussion was based on the brief provided to me by the secretary of the Department of Health and Ageing, Jane Halton.

That, of course, is the commonwealth department that is participating in and largely funding the COAG trial. In his briefings, Mr Collins also intimated that he had spoken to a number of people on the lands, some of whom were very reluctant to speak to him because of their perception that, in being seen speaking to him, there might be some ramifications from members of the APY executive and Mr Lewis in particular. It is clear that Mr Lewis was not supportive of the view that Mr Collins rapidly formed—namely, that there should be an immediate election to regularise the situation that occurred on the lands.

The opponents of this bill suggest that what we ought to be looking at on the lands are the issues of health and services and that we should not be bothered about elections. These concepts are not either/or. It is not a question of either having an election or having services progressed. One can have both at the same time: the election can proceed as well as services delivered. At the moment, the largest funder of services to the lands—namely, the commonwealth government—is not in a position to pass money to the APY executive at a stage when the APY executive is not validly elected. You would have thought that Mr Gary Lewis and the APY executive would have been coming to this parliament earlier this year and saying, 'Listen, we'd like to have an election. We want you to correct this, because we want the money to flow. We don't want to enable our imperfect appointments to be an impediment to the delivery of the services.' Clearly it is the case that the questions and doubts about the validity of the executive have been an impediment. The money cannot flow, because the body that seeks to be the funnel for much of this money is not appropriately constituted.

When on 15 March the Deputy Premier made his announcement about the government's taking decisive action, he went to the opposition, the Leader of the Opposition and the federal minister, Senator Amanda Vanstone, seeking our support for the early passage of legislation to legitimise the executive. We were prepared to give that commitment. However, notwithstanding our commitment, our support and the position laid down by the government through the Deputy Premier, it has taken months for the legislation to be introduced.

We can register our complaint about the delay, but now that the legislation is here we are anxious to see it pushed

through as soon as possible so that the people on the lands can have an opportunity to elect an executive of their own choosing. If, as Mr Lewis assures us, he is doing the right thing and is strongly supported on the lands, no doubt he and his executive will be re-elected. If he is, all power to him—he will have our support and congratulations. Whoever is elected is entitled to expect the support of all in this parliament, but until they are elected they are not entitled to that support, especially as they are clinging to office, notwithstanding the fact that the legislation says, and advice to the government was, that there were at the very least serious doubts about the validity of their continued occupation of office.

The Hon. Kate Reynolds interjecting:

The Hon. R.D. LAWSON: The Hon. Kate Reynolds says, 'Have we seen the advice?' I have asked the minister questions about that and specifically about crown law advice. The fact is that governments do not ordinarily table crown law advice. We have not pressed that point, but you do not need to look at crown law advice to see that there are doubts about the continued validity of the appointment of members of the board. Look at the legislation passed by this parliament. Look at the section that says, 'A member of the executive board shall hold office until the next annual general meeting'.

The executive board itself acknowledged the doubts about its own situation. Last year members of the executive board approached the Premier and asked whether he would support an extension of their term by a device of changing the constitution rather than the legislation. The Premier told them—and told them clearly—that, if they were doing the right thing, they should go to an election and they would be re-elected. They came to see me as opposition spokesman—they being Mr Gary Lewis and his legal adviser from Adelaide, Mr Steve Palyga—and I gave them exactly the same advice as the Premier had given them. I pointed to the legislation and they decided that, notwithstanding what they had been told by the Premier and myself—and I am confident they were told the same thing by the minister and his advisers, if the minister was upholding the legislation—they could not do what they were seeking to do.

The Hon. Kate Reynolds: When was that?

The Hon. R.D. LAWSON: I do not have the date in front of me. However, by looking at a message I received, I can indicate that it was 14 October 2003—well before the anticipated annual general meeting in December. They were looking to adopt a strategy. The other strategy then adopted, after I sent them a formal letter saying that we did not agree to that position, was not to have an election but simply to have a motion put at the annual general meeting that confirmed them in office. They issued an agenda for the annual general meeting and that was it. It did not have 'election of office bearers' but 'confirmation of office bearers'. I raised that in this place with the minister and presented him with the notice of meeting. The minister said that the government was urging the executive to take a different course of action. That is a fair summary of what the minister said. He was not as strong as we would have liked him to be, and he did not say that they had to follow the legislation.

I was critical then of the minister for adopting that stance, but that was the stance he adopted. It was very clear—well before the annual general meeting last year—that representatives within the parliament and the government were telling them that they had to go to an election. Notwithstanding that, they chose not to. At the annual general meeting, apparently the motion confirming them in office was not put because the meeting, according to an answer given to me by the minister, broke up before there was an opportunity for that to occur. I am not aware of those circumstances.

The very fact that that annual general meeting did break-up is unsatisfactory. It is not necessary for us to go into the reasons, but representatives of the State Electoral Commission were present at the previous annual general meeting. They were not present at this meeting last year. I asked the minister whether it was proposed to send them and he said that it was not. That confirms once again the reason why these elections ought to be conducted in a structured way and under the supervision of the independent electoral authorities so that meetings cannot be broken up and so that there is a degree of formality about the elections to ensure that people are entitled to freely exercise a vote.

There has been criticism of Mr Bob Collins for writing in his report that the AP Council is 'profoundly dysfunctional'. In fact, he says:

> I am dismayed at what appears to be a profoundly dysfunctional situation in the most important Anangu organisation in the lands.

He is there speaking of the AP executive as a profoundly dysfunctional situation. That matter should be of grave concern to all. Mr Collins is a highly experienced, highly respected individual, and for him to express in language of that kind the concerns he has should cause alarm bells to ring in this parliament and make us all keen to ensure that that profoundly dysfunctional situation is redressed as soon as possible.

Mr Collins was appointed for the purpose of coordinating services and he made recommendations in his report. It is interesting that the 10 recommendations begin with recommendations about remedying what he sees as the underlying and initial problem that must be redressed before anything else can be done, namely, to regularise the situation with regard to the executive board. Mr Collins recommended:

> 1. That legislation is introduced to provide for an election for the APY Land Council as soon as practicable, but in any case no later than July of this year.

Mr Collins uses the words 'APY Land Council'. That is the description the AP executive board has decided to arrogate to itself and what it is now putting on its letterhead. It is not a misunderstanding by Mr Collins of the identity of the organisation: he simply, out of respect to it, is using the title it has chosen to call itself. He goes on:

> This recommendation is made solely in order to end the serious disputation that is distracting and weakening the capacity of the APY Land Council to do its job. It does not infer that any member of the APY Land Council has taken any inappropriate action.

Fair enough. He is not being critical of any individual and is not looking to criticise or condemn. He is suggesting a way forward and emphasising that the purpose of this recommendation is to end the serious disputation that is distracting and weakening the capacity of the council to do its job.

Secondly, he recommends that the South Australian Electoral Commission conduct the election. Thirdly, he recommends that the commission ensure, to the greatest extent practicable, that all Anangu in the lands have an opportunity to participate in this process if they wish to do so. He suggests that the term of the council, so elected, be for 12 months. Recommendation 5 states that a review of the act should take place.

Subsequent recommendations relate to resources for police, an immediate upgrading of short-term detention facilities, substance abuse programs and facilitating the COAG trial. But, there is absolutely no mistake that Mr

Collins, appointed by the government, has come back with a clear recommendation that there be an immediate election no later than July this year. In order to facilitate such an election, we are very keen that the parliament no longer delays on this matter and that we have the legislation passed quickly so that the developments on the lands and the additional resources that the government is putting in, the COAG trial and the like, can be progressed.

It is not a case of services or elections: it is a case of let us have both and let us have them quickly. This parliament owes it to the people on the lands to implement these recommendations for everybody on the lands, not only supporters—for all I know there might be universal support for the current executive board—but the board should facilitate their re-election and re-endorsement through the due processes of law. We support the bill and we support its early passage. I will pursue some issues in committee, but the important principle is that we have an election soon.

The Hon. CARMEL ZOLLO secured the adjournment of the debate.

STATUTES AMENDMENT (COURTS) BILL

Adjourned debate on second reading.
(Continued from 3 May. Page 1407.)

The Hon. R.D. LAWSON: I rise to indicate the Liberal opposition's support for the second reading of this bill. This bill has the same title and contains many of the same provisions as the bill introduced by the Attorney-General in another place on 28 May 2003. However, there are significant differences in the contents of these two bills. In particular, extensive amendments to the Magistrates Act and the Criminal Law Sentencing Act which were included in the previous bill have been omitted from this bill. Moreover, this new bill now includes some important amendments to the Courts Administration Act and also the Juries Act. These are amendments which were not included in the previous bill. Many of the proposed amendments are relatively minor, procedural and/or administrative, and they are, generally speaking, improvements which are supported.

First I will deal with the Courts Administration Act. The bill proposes that a new section be inserted to ensure that publication on an internet site maintained by the Courts Administration Authority of a decision of a prescribed court will attract the same privileges and immunities as if the publication consisted of the delivery of the decision in court. We wholeheartedly support this measure. The Courts Administration Authority and the Chief Justice in particular are to be commended for establishing the web site on which judges' sentencing remarks on criminal matters are available for perusal and downloading. The motivation behind the web site was to ensure that the media and the public have quick access to complete sentencing remarks rather than having to rely on abbreviated news reports, word-of-mouth, rumour and the like. This initiative was commenced under the previous Liberal government and, in particular, with the support of then attorney-general Trevor Griffin.

Members would be aware that statements made by judges in courts are the subject of absolute privilege. In other words, no defamation action can be instituted against the judge, the court or the state as representing them as a result of making or publishing any such statement. We certainly support that privilege; it is an essential part of the proper functioning of the courts. We also accept that there may be some doubt about whether material published on an internet site attracts the same privilege. On principle it should, and in order to remove the doubt we agree that it is appropriate to enact this amendment.

I indicate that yesterday I introduced a private member's bill to amend the Civil Liability Act, which replaced the Wrongs Act, and to grant privilege not only to reports of courts but also to other reports of a parliamentary type which, when published on the internet, should, in our view, also be privileged. There is one minor problem with the proposed new section: it is technology specific in that it refers to an internet site. Because of the rapid change in technology it is likely that in the near future advances will mean that information is disseminated electronically without using an internet site. However, we do not believe that the passage of this measure should be delayed while we attempt to find a better definition.

The second series of amendments relate to the De Facto Relationships Act. The bill will restrict publication concerning proceedings under that act. It will provide that the same type of secrecy provisions which currently apply to property disputes in the Family Court of Australia will also apply to property disputes between de facto spouses in state courts. In other words, this bill will give the same privacy protection to de facto couples as is enjoyed by married couples who have the misfortune to have their dispute determined in the Family Court. We should recognise that there is a philosophical divide on this issue. Some people would argue that the courts of law are public forums to which any member of the public is entitled to attend and to which the media can also have access. On this view (which I will term the American view), the media should be able to freely publish material relating to private disputes which are conducted in publicly funded courts.

The American view is based upon its constitutional guarantee of free speech. Personally, I think there is a great deal to be said for it. On the other hand, others argue that the public has no right to pry into the private affairs of citizens and that the media should not profit from the misery of those who happen to be before the courts in private, non-criminal disputes. This is certainly the prevailing orthodoxy in Australia. Given the fact that disputes in the Family Court are not publicly available, we accept that it is appropriate that those who have access to state courts should be entitled to the same protection. Moreover, this parliament recently supported the suppression of the publication of evidence in relation to applications by same-sex couples under the Family Relationships Act.

These are applications for a declaration that someone is a putative spouse of another. We have not reached the conclusion we have come to in supporting this measure lightly, because, as I mentioned, on the American view, which is widely held by many in this country, there is much to be said for free access to the courts. Suppression of evidence can lead to suspicions and conspiracy theories about what goes on behind closed doors. Generally, we support openness, but we do accept that a special case can be made in relation to these particular disputes.

The third tranche of amendments deals with the Environment, Resources and Development Court. This court, commonly called the ERD Court, may be comprised of a judge and two lay commissioners. The bill will allow a judge to sit with one commissioner only. The presiding judge, who must be a judge, will be redesignated as Senior Judge. The

Law Society of South Australia on this matter has suggested that the proposal to allow a judge to sit with only one commissioner has arisen because there are not enough commissioners. We share that suspicion and, in another place, we had the responsible minister place on the record information to allay the suspicion that there were not enough commissioners.

Certainly, information was laid on the table in another place in the Attorney's response, and I ask that it be laid before this council for the benefit of members here. Fourthly, there are amendments to the Juries Act. The bill introduced two amendments to the Juries Act. They are both recommended in a review which was conducted in May 2002 and which was commissioned by the Courts Administration Authority. It is of some significance that the second reading explanation of these amendments overlooks mentioning the fact that this review was conducted.

It was an excellent and comprehensive review. One suggested reason for the fact that the government has not mentioned the review is that the government has not adopted many of the very sensible recommendations made in the review. For example, one of those recommendations was that an appropriate travelling allowance be made for the benefit of jurors who have to travel long distances to serve on juries. Indeed, that allowance has remained the same for many years; and, for those who have to serve on juries, particularly at Port Augusta, where the jury pool is drawn from long distances, it is a serious issue which should be addressed.

However, returning to the amendments, the least controversial of the amendments to the Juries Act relates to the payment of jurors. Proposed section 70 will allow the Sheriff to reimburse a juror's employer where the employer continues to pay the juror's salary during the course of the trial. It is true that many employers do not dock pay of their staff members when they are undertaking their community service as jurors. Certainly, we commend employers who adopt that stance; however, it is a bit rough if the employer is paying the staff member and the staff member is also being reimbursed by the government for loss of earnings at the same time.

Accordingly, as outlined in the second reading explanation, the amendment will allow the Sheriff to pay the employer direct and, in that way, the expense to the employer will be minimised and the employee will continue to receive full salary from his or her employer. The bill will also repeal section 31 of the Juries Act. That section currently provides that the Sheriff must cause a list of the names of every juror summoned to render jury service in any jury district for any month to be kept at the Sheriff's office at least seven clear days before the first day of the month.

Subsection (2) obliges the Sheriff to provide on request a copy of the list to the Director of Public Prosecutions, the accused or the solicitor or agent of the accused. We have been informed by the government, through the second reading explanation, that this section has fallen into disuse because of the implementation of new procedures which are designed to protect the anonymity of jurors. Most people in the community would understand why jurors might be concerned about the fact that their names and addresses are publicly available. Quite obviously, a fear of possible recrimination is not an irrational fear.

Under the new system that is to be adopted jurors will not be named in open court but they will be referred to by number, and that number will be allocated to each juror. Presently, the jurors' addresses appear on the list which is provided to counsel. It is proposed that this practice will cease. All that will be provided is a list containing the juror's name, occupation and suburb. Counsel will have to return the list at the end of the empanelling process. The judge will continue to have access to the jurors' addresses, but will disclose this information only if it is deemed necessary.

We have received a letter from the Law Society concerning the operation of the system. The Law Society does not pass any adverse comment in relation to the proposal, which is consistent with the inquiries that I have made of members of the legal profession practising in this field. We are anxious to ensure that the system will operate effectively and will not undermine confidence in the jury system. The bill also simplifies the jury summons by allowing a less formal document to be employed to notify citizens of the requirement of a form of public duty. New section 6A will authorise the empanelling of up to three additional jurors.

The trial in the Snowtown murder case—I should say, the inaptly described Snowtown murder case—clearly illustrated the necessity for a provision of this kind, namely, the empanelling of reserve jurors. In any trial that is expected to run for many months it is inevitable that one or more jurors may become indisposed or unable to continue with service, and any measures which can prevent the disruption thereby occasioned are to be welcomed. Finally on this subject, the bill does introduce a measure to accommodate so-called Prasad directions. It is interesting that the government should be introducing this bill in relation to Prasad directions at a time when, as we are advised, it is not common for those directions to be given by judges, even though at some time in the past they were quite common. The use of them, has, however, been discouraged by various appeal courts.

The next tranche of amendments relates to reclassification of amendments. The bill proposes some technical amendments to the Summary Procedure Act. The first will reclassify offences against children under 12 years of age from minor indictable offences to major indictable offences. The effect of this reclassification will be to require that such cases be dealt with in the superior courts with officers of the DPP rather than police officers as prosecutors. We do agree that this is appropriate. There is a suggestion in the second reading explanation that the government is aware of concerns that these amendments might mean that some defendants are less inclined to plead guilty under section 56. I would be pleased if the minister would place on the record the identity or descriptions of those who express those concerns and, in particular, whether any advice was obtained from the DPP or his office concerning this issue.

Restraining orders are also dealt with under the bill. Amendments to the Summary Procedure Act are designed to make it more difficult for a complainant who is not a police officer to obtain a restraining order. We are told, and the statistics support the proposition, that most applications for restraining orders are made by police—of course, on the complaint of citizens. However, private citizens can make applications and, indeed, they sometimes do. In the second reading explanation the government suggested that there have been incidents of inappropriate use of restraining orders by non police complainants and the view is advanced by the government, as justification for this amendment, that such applications should be discouraged, and one way to do that is by the use of affidavit evidence.

In the committee stage we will explore this issue, and in particular the example given in the second reading explanation of a notorious litigant with mental health problems who apparently obtained a number of restraining orders by falsely

alleging assaults, etc. There is no doubt, and members would be aware, that this sort of thing happens. I have had the experience myself, as have many legal practitioners, of a litigant wishing to pursue what seems to the litigant to be a rational complaint but is not, objectively speaking, rational; and we believe that some mechanism to discourage that ought to be implemented. Whether or not the particular sieve that is proposed in this bill is the appropriate one is something that we will explore in committee. The Law Society certainly raised some issues in relation to the question of appeal, and we will pursue that during the committee stage.

The Supreme Court Act is to be amended in a number of respects by the bill, in particular, the making of orders in all courts, the workers compensation jurisdiction and other prescribed tribunals in relation to vexatious litigants. The case of the Attorney-General for South Australia v Burke is mentioned. In that case the Residential Tenancies Tribunal found that it was unable to exercise complete powers in relation to a litigant who was deemed to be vexatious. We agree that this issue should be addressed.

Amendments are proposed to the Criminal Law Consolidation Act relating to the mental impairment provisions. These provisions were inserted as recently as 2002, and those amendments repeal the words 'liable to supervision' in section 269G. The effect of that repeal was that a court which acquitted a person on the grounds of mental incompetence could not authorise the person to be liable to supervision. That was an error, and it was rectified in the Criminal Law Consolidation (Offences of Dishonesty) Act 2002. However, that last-mentioned act only applies to offences committed after 16 January 2003. The current bill will seek to ensure that the amendment applies back to 29 October 2000 when the new mental impairment provisions came into force.

We have received assurances in writing from the Law Society that this retrospective amendment is not inappropriate. Ordinarily, we are very suspicious of retrospective amendments, especially in relation to criminal legislation. I think it is worth putting on the record, for the benefit of members, the position of the Law Society as set out in a letter dated 3 October 2003 from the society to the Attorney-General, and it states:

> We note the retrospective effect of the particular amendment provisions of the Criminal Law Consolidation Act concerning mental impairment. We agree that the retrospective effect of the legislation is always an important matter of principle and we note your observations about that in your letter as well as in *Hansard*.
>
> We might explain that the need for this retrospective amendment arose by virtue of a case that was pending in the District Court earlier this year in which the accused person had raised the defence of mental impairment. In the course of the hearing it became apparent to the presiding judge, and to prosecution and defence counsel, that if His Honour found the accused person not guilty of the offence (which occurred in early 2001) by reason of mental impairment then there was a serious lacuna in the legislation because of the prior amendment which had removed the legislative provision enabling the District Court to direct that a person was liable to supervision.
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> As a result of those concerns, counsel for the DPP took appropriate steps for the introduction of the legislation to cure this defect. The defect could otherwise have operated to prevent the usual powers available to the court in determining the disposition of an accused person found not guilty by reason of mental impairment. This would have been unfair and unjust in the circumstances.
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> The amendment is therefore indeed necessary to cure this defect so as to ensure that there is not any period of time during which offences may have been committed which would not be covered by the entirety of the mental impairment legislation. Retrospectivity in this particular instance is therefore necessary and appropriate.

Accordingly, we do not see the retrospectivity in this provision as offensive. It does not seek to turn conduct which was not previously an offence into criminal behaviour. Indeed, it is a beneficial provision and we will support it and support the second reading of the bill.

The Hon. IAN GILFILLAN: The Democrats support the second reading of the bill. My understanding of some of the more interesting aspects of what it will achieve is, in the first instance, the extension of protection of court officials and staff in respect of the electronic publication of sentencing remarks and decisions of any prescribed court or tribunal, which is a very relevant and topical issue given the risks associated with the electronic publication of material, and not only in this context. There are two cautionary notes, however. First, that the material cannot be loaded for electronic publication prematurely and, secondly, it does not extend to further republication.

Privacy for de facto couples who are separating will be extended to be on a par with married couples as per section 121 of the Family Law Act. We believe that this is a welcome extension and recognition of the de facto relationship as being a very valuable and comparable relationship in our current society.

The Development Act 1993 extends the composition of the ERD Court to a judge and one commissioner, which matches its jurisdiction in respect of environmental and water resources matters. This extension can apply when planning matters are being considered. Title changes will take place through this legislation. The presiding member becomes a senior judge and the assistant becomes a deputy registrar.

With respect to the Juries Act 1927, as the shadow attorney-general observed, the Prasad directions are at the very least curious and I was interested to hear his bemusement at the fact that they are considered in this legislation or in this context. The jury summons document is to be softened. Without having had one served on me, I am not sure what the original document states, but I gather it must be a fairly peremptory document, and anything that makes it more user friendly is to be accepted and welcomed. If this bill is implemented, reimbursement to employers who continue to pay jurors will be made directly, and that practice is to be encouraged for various reasons. It is good that employers, recognising their public duty, continue to pay jury members as if their employment were continuing.

Under the Summary Procedure Act 1921, minor indictable offences of a sexual nature against a child under the age of 12 years will be prosecuted in the superior courts and will then become major indictable offences. It is observed, and I can see the logic in this, that this may reduce the occasions when an accused pleads guilty. The issue of retraining orders of what could be described as dubious validity will be confined. In this amendment to the Summary Procedure Act, the applicants must now either be supported by police or give oral evidence to support their application.

The amendment to the Supreme Court Act 1935 will allow vexatious litigants to be identified and prohibited from proceeding in not only the courts but also the tribunals, which will include the Workers' Compensation Tribunal. Under amendments to the Youth Offenders Act 1993 and the Youth Court Act 1993, the Juvenile Justice Advisory Committee, which is currently under the Attorney-General, will be abolished and replaced with an intra-governmental youth justice advisory committee under the Department of Human Services.

The focus that the shadow attorney put on the retrospective application of 'liable to supervision', to validate it back

to the year 2000, is unexceptional to us. It seems reasonable. One is wary of the word retrospective or the apparent application of retrospectivity at all in legislation, but the Democrats can see no problem arising from this. We will look forward to the committee stage and support the second reading.

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I thank the Deputy Leader of the Opposition and the Hon. Ian Gilfillan for their indications of support for the bill. The deputy leader raised some questions and I will endeavour to do my best to answer those during the committee stage when my adviser is with me.

Bill read a second time.

In committee.

Clauses 1 to 4 passed.

New part 2A.

The Hon. P. HOLLOWAY: I move:

Page 4, after line 26—Insert:
Part 2A—Amendment of Criminal Law Consolidation Act 1935
4A—Substitution of Division 11 of Part 9
Part 9 Division 11—delete the Division and substitute:
Division 11—Witness fees and expenses
297—Witness fees
Witness fees and expenses in respect of proceedings under this Act are payable in accordance with the regulations.
4B—Amendment of section 353—Determination of appeals in ordinary cases
Section 353(4)—delete subsection (4) and substitute:
(4) Subject to subsection (5), on an appeal against sentence, the Full Court must—
(a) if it thinks that a different sentence should have been passed—
(i) quash the sentence passed at the trial and substitute such other sentence as the Court thinks ought to have been passed (whether more or less severe); or
(ii) quash the sentence passed at the trial and remit the matter to the court of trial for resentencing; or
(b) in any other case—dismiss the appeal.

This amendment inserts two new clauses and I will speak to each of them here. First I refer to proposed new clause 4A. Part 3A of the Subordinate Legislation Act of 1978 provides for the expiry of regulations after a period of 10 years. The expiry of regulations may be postponed for a maximum of four years so that no regulations may remain for longer than 14 years. The purpose of regulation expiry is to prompt the government to review each set of regulations to determine whether they are still appropriate and necessary so that they may be remade, revoked or allowed to expire.

The criminal law witness payments regulations of 1989 are made pursuant to section 297 of the Criminal Law Consolidation Act 1935. These regulations concern payments to witnesses for the prosecution in the trial or preliminary hearing of indictable offences. The regulations have had their expiry postponed for four years and therefore expire on 31 August 2004. The practice of the higher courts in South Australia since at least 1971 is to have witness payments made by the sheriff. This appears to be at odds with section 297 and the regulations made under that section. However, the Crown Solicitor has advised that, notwithstanding the words of section 297, the District Court and the Supreme Court have either an inherent power or an implicit statutory power to delegate functions to the court staff, including to the sheriff. When consulted on the criminal law witness payments regulations 1989, the Chief Justice suggested that the regulations be altered to make it clearer that the sheriff may make payments 'without reference to the court'. The regulations cannot be altered in this manner, however, without first dealing with the regulation-making power in the act.

Section 297(7) of the Criminal Law Consolidation Act provides that the Governor may make regulations but only about the rates of payments and the form of certificates to be used by an examining magistrate or justice. Section 297(6) provides that the sheriff may make payments to witnesses for the prosecution, but it appears from that subsection that payments may be made only to persons named in an order of the court. This amendment will amend section 297 so that the making of fresh regulations may authorise efficient administrative practices. A similar amendment was made in 1992 to what was previously the Justices Act 1921. Before 1992, section 200a of the Justices Act 1921, now the Summary Procedure Act 1921, provided for a certificate of compensation to be issued by the justices in any proceedings under this act and for the amount of such compensation to be paid either by the sheriff, in the case of a preliminary examination, or by the clerk of the court in any other case. Since 1992, section 190 of the Summary Procedure Act simply provides:

> Witness fees and expenses in respect of proceedings under this act are payable in accordance with the regulations.

This is the same provision we now propose to insert into the Criminal Law Consolidation Act 1935 to replace existing section 297. The Attorney-General intends to again consult the Chief Justice and others about the content and fresh regulations to be made under this new provision before the Criminal Law Witness Payments Regulations 1989 expire for the final time on 31 August 2004.

Speaking now in relation to new clause 4B, section 353(4) of the Criminal Law Consolidation Act provides:

> On an appeal against sentence, the Full Court shall, if it thinks that a different sentence should have been passed by the sentencing court, quash the sentence and pass such other sentence in substitution as it thinks ought to have been passed.

His Honour, the Chief Justice, has raised a potential problem with section 353(4). On one reading of this provision, it requires the appeal court, when it allows an appeal, to pass the sentence itself but does not permit it to remit the matter for resentencing to the court from which the appeal was brought. Although, in many cases, the appeal court can and does impose a substitute sentence, His Honour advises that there are cases where, for one reason or another, it is either inconvenient or inappropriate to do so. This amendment clarifies the appeal court's power to quash the sentence passed at trial and either substitute its own sentence or remit the matter to the court of trial for resentencing. I commend the amendments to the council.

The Hon. R.D. LAWSON: Can the minister indicate whether, in relation to new clause 4B, there has been any consultation with the Law Society and, if so, what response has the society provided?

The Hon. P. HOLLOWAY: My advice is that, no, there has not been any consultation with the Law Society. This amendment was specifically requested by the Chief Justice, so it has been referred back to him.

The Hon. R.D. LAWSON: Has the amendment been drawn to the attention of the Law Society or any committee of the Law Society?

The Hon. P. HOLLOWAY: My advice is: not at this stage, but it is the intention to bring it to the attention of the Law Society prior to the new regulation coming into effect.

The Hon. R.D. LAWSON: The minister has just said that it is proposed to consult with the Law Society before the new regulation comes into force.

The Hon. P. Holloway: To make it aware of it.

The Hon. R.D. LAWSON: Yes, to inform it. My question, though, relates to new clause 4B, and that is the amendment to section 353, which of course does not relate to regulations but to an entirely separate issue. Can the minister indicate whether the Law Society will be specifically informed of that to enable it to comment before the matter is considered again in another place?

The Hon. P. HOLLOWAY: I used the word 'regulation' before; I should have used the word 'provision'. I was really talking about the provision in new clause 4B—not the regulation.

The Hon. R.D. LAWSON: Whilst we do not have any particular objection to this amendment on the face of it, we believe that it is appropriate that the Law Society be given an opportunity to comment. The Law Society commented on the original bill the government introduced, and when that bill was altered—and altered significantly—once again, comments were sought by the government and obtained, and now this amendment has been introduced after the bill has passed through the other place. We believe that it is appropriate that the Law Society has the opportunity, because very often members of the criminal bar have a particular perspective which can be different from that of either the government or the judiciary.

This seems to be an amendment promoted by the judiciary, which is reasonable. However, the Law Society should have the opportunity to comment and the parliament should have the opportunity to consider what its response is, if any, before finally resolving the matter. So, we seek an assurance that this matter will be addressed, namely, that the Law Society will be advised and provided with an opportunity to comment before the matter is considered in another place.

The Hon. P. HOLLOWAY: I think we can give that undertaking. The amendment, if it is passed, will have to go back to the other house. So, before it is proceeded with there, we can make sure that the Law Society is consulted. I will give that undertaking on behalf of the government.

The Hon. IAN GILFILLAN: The Democrats take particular interest in the Law Society's observations and often seek its observations about legislation, although we are not necessarily locked into complying with or being persuaded by its opinions. I believe that the society's opinions are ancillary to rather than a determinant of the way in which this parliament operates. As far as I am concerned, I respond to the matters that come before this chamber. The amendment appears to be logical and innocuous, and it would be very difficult to find any point of contention. So, although I think it is a matter of interest to know what the Law Society's view is, as far as we are concerned we are prepared to pass the amendment regardless of the Law Society's opinion.

The Hon. P. HOLLOWAY: It also needs to be pointed out that the Chief Justice is seeking to clarify the powers of the courts so that they operate in the way in which it has always been understood they should operate. Nevertheless, we have given the undertaking, and we will consult with them.

The Hon. R.D. LAWSON: In response to the comments made by the Hon. Mr Gilfillan, I would not like it to be thought for a moment that we consider that the views of the Law Society are determinant of this or any other issue. The point I was seeking to make is that it provides, on a voluntary basis, submissions about legislation and, if subsequent amendments are introduced and it has not been given the opportunity to comment, it seems to me discourteous to a body which, in the public interest, is accustomed to providing comment and has reasonable expectation that its comments will be invited.

New part inserted.

Clause 5 passed.

Clause 6.

The Hon. R.D. LAWSON: This clause refers to the constitution of the Environment, Resources and Development Court. As I mentioned in my second reading contribution, it is suggested by some that the reason for this amendment is that there are insufficient commissioners to sit with judges, and it is for that reason that, if this amendment is passed, judges will be able to sit with only one commissioner. Will the minister place on record details of the number of commissioners who are sitting at the moment and their caseload? Will he respond specifically to the suggestion made by the Law Society that there are insufficient commissioners to enable the practice of two commissioners sitting on each appeal?

The Hon. P. HOLLOWAY: I will read out the response the Attorney made at the committee stage in the other place, as it may well answer the honourable member's question, as follows:

> The member for Bragg also asked whether the proposed amendments to the Development Act to allow a judge to sit with only one commissioner are proposed because there are not enough commissioners. I can assure the house that this is not so. The Environment, Resources and Development Court comprises two District Court judges, two District Court masters, three full-time commissioners with expertise in the planning field and 26 part-time commissioners with expertise in areas spanning the jurisdictions administered by the court, including planning, environment protection, water resources, native vegetation and native title.
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> Planning and development are the bulk of the court's work. Judges and commissioners dispose of this work either sitting as a single bench comprising a judge or commissioner sitting alone or a Full Bench comprising a judge and two commissioners. In the planning jurisdiction, part-time commissioners will usually sit as part of a Full Bench—that is, there would be one full-time and one part-time commissioner. The decision not to sit two full-time commissioners is influenced by the fact that full-time commissioners preside over the vast majority of pre-hearing conferences, which are compulsory under section 16 of the ERD Court Act, thereby being ineligible to hear matters that proceed to hearing. Decisions as to the composition of the bench are therefore not about lack of resources but rather about the most efficient use of these resources. If full benches were comprised entirely of full-time commissioners, there would also be an impact on waiting times for conferences—conferences that are convened as soon after lodgement of an application as possible to explore possibilities for settling matters in dispute between parties and thus avoiding a formal hearing.
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> The court has provided statistics to demonstrate how it has allocated its full-time and part-time commissioners to the hearing of planning appeals for the period January 2000 to February 2004. These are: of the 214 planning appeals heard, 130 were presided over by a full-time commissioner sitting alone; nine were presided over by a part-time commissioner sitting alone; 14 were presided over by a judge, one part-time and one full-time commissioner. In addition to appeal hearings, the full-time commissioners presided over most planning conferences, which resulted in 40 per cent settling at conference and not proceeding to hearing, and possibly influenced the course of some of the further 30 per cent of matters that are settled or withdrawn before hearing. To put into context the importance of efficiently managing commissioners, the court has been able to reach its time standards for convening conferences by listing them within four to six weeks of lodgement of the appeal.

Clause passed.

Clauses 7 to 15 passed.

Clause 16.

The Hon. P. HOLLOWAY: I move:

Page 8, after line 4—Insert:
(2) Section 6A(3)—after paragraph (b) insert:
(c) if the jury is retiring to consider whether or not to return a verdict without hearing further evidence—direct that they rejoin the jury in the event that the jury decides that it wishes to hear further evidence before returning a verdict.

Clause 16 amends section 6A of the Juries Act. Section 6A allows for up to 15 jurors to be empanelled in the event of a long criminal trial. Subsection (2) provides that, where the jury retires to consider its verdict, a ballot is held to reduce the number of jurors to 12. Subsection (3) provides that jurors balloted out under subsection (2) are either discharged or, where the jury has retired to consider a number of separate issues, directed to rejoin the jury when the issues have been determined. The Chief Justice expressed some concern that section 6A may not apply to Prasad directions. A Prasad direction occurs at the conclusion of the prosecution case, when the judge invites the jury to retire and consider whether it wishes the trial to continue or, alternatively, bring in a verdict of not guilty. The direction is given when a 'no case' submission cannot succeed but the judge nonetheless considers it appropriate to give the jury an opportunity at the close of the prosecution case to return a verdict of not guilty.

Clause 16 amends section 6A(2) to make clear that, when a Prasad direction is given and the jury retires, the additional jurors are balloted out as per the subsection. After further consideration of clause 16, including further consultation with His Honour the Chief Justice, the government believes an amendment to clause 16 is advisable. This new amendment will add to section 6A(3) a new subsection making clear that any jurors balloted out under subsection (2), in the event of a Prasad direction, rejoin the jury in the event the jury wishes the trial to continue.

The Hon. IAN GILFILLAN: Out of curiosity, and perhaps for those who may be browsing through *Hansard*, what is the origin and the interpretation of Prasad?

The Hon. P. HOLLOWAY: A Prasad direction originates from the case of R v Prasad (1979) 23 SASR 161. If there is any further information, I will supply it to the honourable member.

The Hon. R.D. LAWSON: Once again, I will ask whether comments have been sought from the Law Society on this additional amendment, apparently suggested by the judiciary. If so, what are those comments? This is an essentially practical matter, and it could be anticipated that experienced members of the legal profession who appear in jury trials might have some view on the appropriateness, workability and, indeed, desirability of a provision of this kind.

The Hon. P. HOLLOWAY: Given that we are referring new clause 4B to the Law Society, I am sure that we can include this one in that consultation.

Amendment carried; clause as amended passed.

Remaining clauses (17 to 28) and schedule passed.

Long title.

The Hon. P. HOLLOWAY: I move:

Page 1—After 'Courts Administration Act 1993' insert 'the Criminal Law Consolidation Act 1935'.

This amendment is consequential on amendments we have already passed.

Amendment carried; long title as amended passed.

Bill reported with amendments; committee's report adopted.

Bill read a third time and passed.

NATURAL RESOURCES MANAGEMENT BILL

Adjourned debate on second reading.
(Continued from 1 April. Page 1379.)

The Hon. CAROLINE SCHAEFER: The whole of the council will be relieved to know that I do not intend to make the same length of contribution as my colleague in the other place. The shadow spokesman for environment and planning in the House of Assembly spoke for some five hours on this bill. People accused him of grandstanding. I would, however, like to acknowledge the magnificent efforts of the Hon. Iain Evans and his staff member, Christie Elliott. This is a mammoth piece of legislation and, although a number of us contributed, they shouldered the responsibility and the majority of the work for the Liberal Party. In fact, after two years in the making, the opposition moved over 200 amendments and the majority of those were accepted. To me that simply says that the Hon. Iain Evans did more work on this bill than did the minister, who had an entire department to back him. Thank goodness the shadow minister did this because, although we think it is still a very flawed piece of legislation, it has greatly improved the bill introduced in the House of Assembly.

The original intention of the natural resources management legislation under the Liberal government was to amalgamate two acts and two boards, largely as a result of approaches by people on the ground who were overworked and looking to cut down on red tape. The two boards most affected were the animal and plant control boards and the soil conservation boards, and the synergies of those two are obvious to us all. The idea under the previous government was to streamline the administration and give greater power and participation to the practical operators, in particular those whose living is dependent on natural resource management.

The amalgamation of water resource management with the other two acts was never part of the agenda, and the meshing of this third act is part of the cause of what is now a mangled mish-mash of legislation that is practically impenetrable to read and virtually impossible to comprehend. Although the original intention may have been to streamline the legislation, we now have 211 pages of legalese, which only the most committed have read in its entirety. After two years of exhaustive and exhausting consultation, instead of an easier management system we have something that is quite the opposite. I recognise that there are many people from my own constituency, that is, primary producers across the state, who have become involved in one way or another with this bill and who believe it is a move in the right direction.

I recognise that both the South Australian Farmers Federation and the Local Government Association have ticked off on it, but when questioned people say, 'Oh well, we got this concession or that concession, which makes it better than it was' and they are therefore pleased with their efforts. I have not yet found anyone who has said that they are delighted with the entire piece of legislation and, as late as this morning, I was receiving very concerned calls from land managers, particularly in the pastoral areas.

Most of these people then actually concede that more improvement could be made. Some even say that this is only a template and that we will make improvements as we go along. My reply to that is that it is always difficult, if not impossible, to unscramble an egg. Surely we should be

aiming at the best possible legislation when we pass it. For instance, does the LGA understand that this legislation provides for a natural resource management board, which is to be appointed by the minister, to override a plan amendment report approved by the elected members of local government?

Does SAFF fully understand the unique powers to be given to the minister or his nominee, that is, his department, which will allow him or his nominee to override, accept, reject or amend a regional NRM plan, even though he will actually appoint the board that writes the plan; or that in irrigation areas the minister will have the power to decide which crops are suitable to be grown before allocating licences? If these peak bodies do understand that these are examples of how far-reaching are the powers of the minister under this bill, and they are still happy with it, I can only say that I am very surprised.

I suppose this is the crux of my concern with this bill. Under the previous system the previous ministers—the minister for environment, the minister for primary industries and the minister for water resources (and therefore their three separate departments)—all had responsibilities under different aspects of natural resource management and therefore there was a natural system of checks and balances. Although I was not a member of cabinet at the time, I am fairly sure that there would have been some very robust discussions from time to time at that level on various aspects of natural resource management. Under this legislation there is no such system of checks and balances. The one minister has total control over the management of all of the state's natural resources.

I am also concerned that what set out to streamline bureaucracy seems to have had the opposite result. Previously we had a number of boards across the state that dealt mainly with local natural resource management issues, and they were funded by a levy collected by local government. They reported mainly at a local level. They were represented by advisory boards at a state level. As I understand it, the advisory boards had direct access to the minister or his nominee. We will now have an advisory council appointed by the minister which does as it says—advise the minister—but which has no direct contact with the regional boards. Under this legislation we will have eight regional boards, again, appointed by the minister; their chair, also appointed by the minister, will be answerable to the minister. They will develop, implement and administer the regional plans, but only with the approval of the minister who, as I said previously, will have the right to alter or refuse any or all of the plan without recourse to the board.

As I understand it, the board will receive and administer funds on a regional basis. It will also recommend the levy rate set by the minister. The boards will be the conduit between the public and the minister. It surprises me when I sit down to read the bill and enunciate it like this, to find that there are people who actually want to serve on these boards. They will be remunerated, as will be the council. However, anyone I have asked has readily agreed that none of this will work if there is not continued and significant commitment from local groups. It seems to me that these local groups will be similar to the more localised boards that are currently in existence, but these local groups will now be expected to be voluntarily. It appears that, even though the intention was the opposite, we have actually created another layer of bureaucracy, and moved the actual management of natural resources further into the hands of the minister and his all-powerful, all-encompassing department and further away from regional hands-on management.

I am also concerned about the appointment of the boards. It is worth reading out the composition of the boards and how they are to be appointed by the minister. It seems that the only thing a minister must do is place in a newspaper circulating throughout the region a notice of his intention to appoint a board and calling for expressions of interest.

The Hon. J.S.L. Dawkins: He has already done that.

The Hon. CAROLINE SCHAEFER: True. As my colleague interjects, he has actually already done that. Even though this is not yet confirmed legislation, the minister has already jumped the gun and done that. Further, it suggests that he should give consideration to nominating persons so as to provide a range of knowledge, skills and experience across the following areas.

There is a list of those people who may have relevant skills in community affairs; primary production; soil conservation; conservation and biodiversity management; water resource management; business administration; local government; urban and regional planning; Aboriginal interests; pest, animal and plant control; natural and social science; and, if relevant, coastal, estuarine and marine management. But it only suggests that he should give some consideration to that, not that he must.

The minister can appoint whomever he chooses for these boards. It states that he should endeavour to ensure that a majority of the members of the board reside within the relevant region and that a majority of the members of the board are engaged in an activity related to the management of land. But that is all it says; it does not require that they actually be primary producers. It does not preclude, as I see it, a bunch of nine public servants being appointed to the position if the minister so chooses; and it does not require that a certain number of people live within the region, only that the minister should take it into consideration.

Given the great influence on natural resource management that the mining industry has in this state, I wonder why there is no mention of his giving consideration to someone from the mining industry in, perhaps, the north-west of the state. On a number of previous occasions I have said that sustainability is about giving equal weighting to all three sides of the triangle. The sustainability of our natural resources is about environmental, economic and social health. Without people living satisfying lives and making a reasonable income, there will be no-one left out there in the regions to adequately manage our natural resources.

It seems to my party and me that this bill is lopsided, giving far more weight to the environmental side of the triangle than the other two sides. We have sought to make amendments that will restore the balance and give due recognition to those who will bear the responsibility of this legislation in their daily lives, in particular, farmers living in the regions. I am pleased that a number of those amendments were agreed to in House of Assembly, but I was even more pleased to hear the minister on regional radio the other day (for the very first time, I might add) acknowledging that great steps forward have been made by farmers in recent years toward sustainable management. However, I caution the minister against thinking that he can force such management upon farmers.

We will seek to amend a section in this bill that tries to apply—I think the wording is—'accepted best practice'. I beg this government to have some compassion for all those who may know what is accepted best practice but who do not have

the money to apply it. I use the example of a farmer who may know that minimum or zero tillage is the way to go but who does not have the finance necessary to buy the equipment to make those changes. The last thing those people need is a whopping great fine—and some of the fines in this legislation are whopping and great—if their paddocks drift during a drought. Again, I stress that the opposition seeks a balance between environmental, economic and social sustainability. That will not be achieved by waving a big stick with no sign of a carrot. This is why, in every case, we have sought to increase fines incrementally by 10 per cent rather than in some cases by 400 per cent and up to a maximum of $75 000, as suggested by the government.

The opposition is also seeking to make this legislation transparent and the minister, given his huge powers, as accountable as possible. So, we have moved a series of amendments with regard to the tabling and accessibility of reports. I understand that there is a genuine attempt by the government to reach a practical compromise on a number of these issues between the houses. I give an undertaking that, when the government places its amendments on file, we will assess them on their merits and endeavour to cooperate in the same way as a number of compromises were reached in the lower house. In fact, a number of people have commented to me on the cooperative manner adopted by the minister and the shadow minister in the committee stage of the House of Assembly debate. I will attempt to conduct the debate in this place in a similar fashion, but I warn the government that I do not have carriage of this bill in my own right. So, the sooner members opposite table their amendments, the sooner we can reach a decision as to whether or not they will be supported. It is impossible for me, as a single member of parliament, to make concessions to the minister or his department until I actually see, in writing, what amendments he plans to make.

Sadly, there are still some 158 amendments which I intend to file, and they are a direct lift from the amendments that were not passed in another place. We will attempt to change the number of regions, as we previously did, from eight to 10, because we do not believe there is sufficient commonality of interests in the greater Adelaide region.

We will be endeavouring to make this hotchpotch of legislation into something that is both readable and manageable on the ground. But, as I speak, people are ringing my office still asking for further amendments to this legislation. The Liberal Party was put in the position of pretty much standing on its own in criticism of this bill. However, now, as people are beginning to realise the implications for their daily lives of this large and draconian piece of legislation, they are asking us at the eleventh hour to make changes. I am sure that they are also contacting the minister, and I would hope that within the next few days I see the colour of the minister's amendments so that, hopefully, we can proceed.

I do not think there is anyone who does not recognise the importance of natural resource management to this state and the fragility of some parts of our environment. Certainly, we do not wish to block anything that is important for the sustainability of natural resource management in the state. What we do want is a piece of legislation which, for a start, is readable (that would be a plus), which requires some transparency and which requires this all-powerful minister to be accountable to someone. We will be seeking that at least some of those things happen with our amendments when the time comes.

The Hon. CARMEL ZOLLO: In the last parliament, as a member of the Statutory Authorities Review Committee, I had the good fortune to take part in the inquiry into animal and plant control boards and soil conservation boards. The committee noted that there were 27 soil conservation boards and 30 animal and plant control boards. One of the recommendations of the Statutory Authorities Review Committee was that, over a period of time, the soil conservation and animal and plant control boards be amalgamated. When I spoke at the noting of the report, I said that I found the inquiry to be a very rewarding one in which to be involved, because our future wellbeing is, of course, very much dependent on the wealth of the environment that surrounds us, and the administrative structures that we have in place to manage those environment are therefore important.

I welcome this legislation before the council. I know that it has taken a long time to bring this bill before us. At the time the committee undertook its inquiry I said that in the next few years we would see some legislative changes to the manner in which natural resources would be managed in South Australia, with some arising from the draft integrated natural resource management legislation and some, hopefully, from the committee's recommendations.

The draft legislation was available for public comment at the time the committee undertook its inquiry. When speaking at that time I noted that, in some areas of our state, the beginnings of integrated natural resource management were already being put into place while some areas were a long way from achieving that goal. I think that the best example of integrated regional natural resource management came from the committee's visits to the South-East at that time. The South-East Natural Resource Consultative Committee (SENRCC) had been established because several members of key natural resource management bodies in the region were concerned that there was some overlapping of the decision making in relation to natural resources.

When noting that report, I also talked about the importance of the River Murray, and I noted its critical links to the fortunes of the state and, to a lesser extent, to other waterways. This government has, of course, since passed legislation in relation to the River Murray. The concept of integrated natural resource management is one which has had strong support from all sides, so I was interested to hear what the Hon. Caroline Schaefer had to say. I believe that, when I sat on that inquiry, overall that was the case. When cleaning up some papers recently I came across the white paper on the Natural Resource Council of South Australia released by then minister Lenehan dated January 1992.

It is worthwhile placing on record the foreword of that white paper, as follows:

> Recent events in the Murray Darling River Basin have served to demonstrate the vulnerability of Australia's natural environment and the critical importance of its sustained health for the maintenance of a wide range of human activities. As our community endeavours to understand and plan for the consequences of major global changes brought about decreasing biodiversity and climate change, it is essential that governments are effectively advised on the allocation, use and management of natural resources. The South Australian government is proud to be pioneering a significant new initiative to ensure an integrated approach to the allocation, use and management of the state's natural resources on an ecologically sustainable basis.
>
> The use of the state's natural resources is an important generator of economic wealth. A strong economy provides opportunities for improved environmental management, just as ecologically sustainable management of natural resources provides the basis for long run economic wellbeing.

I was pleased to see this government continue with that commitment in its election platform. As the minister in the other place said, what we have before us in this bill is this government's commitment to make the necessary administrative and legislative changes to reform both institutional arrangements and legislation for natural resource management. We did promise to develop new arrangements that would support skills-based regional boards to coordinate regional programs for natural resource management with the promise that these arrangements would bring together water management and allocation, soil conservation and management issues and animal and plant control matters.

As well, the new arrangements would need to incorporate the development and implementation of revegetation and biodiversity plans and works to manage salinity as components of both the state and regional NRM plans. The minister then outlined the manner in which we went about such commitment, those bodies affected by the changes and the wide consultation that was put in place, as well as outlining the key role played by an interim natural resource management council by providing expert guidance, support and assistance throughout.

Again, as a former member of the inquiry of the Statutory Authorities Review Committee in early 2002 under the previous government, it was obvious to me that too many decisions were being made in isolation from each other—not always, but, in some areas of our state, they were happening. As a society in this very fragile and ancient land we cannot afford the luxury of this continuing. Members of the committee travelled widely as part of that inquiry. We travelled to Eyre Peninsula, Spencer Gulf through to the Mid North, the Murraylands, the South-East and the Coorong.

I had left the committee by the time it travelled to the Adelaide Hills but, I guess, it is an area with which I am not unfamiliar. I do remember being astounded by the dry land salinity just out of Port Lincoln, and I was pleased to see the remedial work that was being done at the time. Whilst evidence of degradation and bad practices were all too evident, the committee was left with the overall impression that, in the last 15 years, we had seen some change in the mindset of many and, hence, the educational and legislative changes before us. Dealing with our natural resource management in a holistic way was a much repeated phrase.

I remember well the Hon. Legh Davis repeating that phrase many times. This legislation before us outlines the proposed new structure, which includes a peak NRM council and eight regions, each with a skills-based NRM board with direct access to the minister. Subregional NRM groups will ensure that local communities will remain engaged and that real outcomes are achieved. The sub NRM groups replace the current system of 72 boards, which separately manage issues relating to water, pest plants and animal and soil conservation. The proposed NRM levy on all property holders will replace the existing catchment water management levy.

The contributions for animal and plant control are already included in local government rates. The bill includes provision for natural resource management and water, soil, animal and plant control, and also the administrative process that delivers the commonwealth/state programs, such as the Natural Heritage Trust and the Natural Action Plan for salinity and water control. I noticed that, in his second reading explanation in the other place, the minister indicated that he would accept as many of the amendments as the opposition had as long as they were consistent with the overall direction in which the government was trying to go. He certainly did that. I noticed that the Hon. Caroline Schaefer placed on record the cooperation that we saw in the other place. The legislation before us should be a consensus piece of legislation.

Debate adjourned.

[Sitting suspended from 1.01 to 2.15 p.m.]

QUESTION TIME

PRISONS, MOBILE TELEPHONES

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Minister for Correctional Services a question about mobile phones in prisons.

Leave granted.

The Hon. R.D. LAWSON: In December last year the commonwealth Attorney-General hosted a conference in Sydney of commonwealth and state representatives concerning, particularly, terrorism suspects in correctional institutions, and one of the major topics was the use of mobile phones in prisons. It is a notorious fact that the use of mobile phones is increasing, they are getting smaller and easier to conceal and harder to detect, and SIM cards can be separated from phones and a number of SIM cards used in the same phone, which has led to all law enforcement agencies and correctional agencies around the world examining methods of ensuring that such phones do not get into correctional institutions and are not used there for criminal purposes.

There have been a number of instances internationally where criminal activities have been conducted, planned and orchestrated through the use of mobile communications. Given the fact that mobile phones now transmit not only audio but also digital photographs and videos, their potential for criminal use is marked. In some countries, but not Australia, jamming technology is installed in correctional institutions. My questions are:

1. Is the minister aware of the incidence of mobile phone use in correctional institutions in South Australia?

2. Have mobile phones been confiscated in South Australia and, if so, what number?

3. What steps or measures are taken in our prisons to ensure that mobile phones are not taken into those institutions and used for criminal purposes?

The Hon. T.G. ROBERTS (Minister for Correctional Services): I thank the honourable member for his informed question. At the last conference of correctional services ministers that I attended in Melbourne, the subject of how to deal with the potential of mobile phones reaching prisons was discussed. Also discussed was the possibility of the commonwealth, through the communications minister, being involved in an investigation into the success or otherwise of a jamming device being able to stop mobile phone signals both in and out of prisons, if they are brought into prisons. The New South Wales minister was deeply concerned because of the number of confiscations in that state. Other states had similar problems but certainly not of that size, but I do not have the figures before me.

It appears that in New South Wales it is a real problem, and the minister was driving very hard for the commonwealth to assist in looking at the act to bring about a change in the way in which jamming devices can be used. From the information that we were given and from the information that I have been able to draw on since (and I do not have a

departmental brief with me), it appears that the jamming devices that are available thus far not only jam the signals inside the prison but they also jam the signals outside the prison, which would interfere with communications generally, not just mobile phones, but possibly air safety and emergency services.

For a number of reasons, they were finding it difficult to find the right geographically-based technology to isolate the jamming inside our prisons. However, from the information provided as well as through anecdotal evidence, it appears that there might be at a later date technology that will isolated a specific geographical area. I understand that further investigations were to be undertaken, and that the information in relation to drug traffickers and the potential for terrorism raised by the honourable member is accurate. Businesses can and have been run out of prisons nationally and internationally by drug lords and key people in the drug industry who are running their empires from inside the prison system. However, it is certainly not the case in South Australia.

The size of the drug problem and the type of criminal in the prison system, particularly in the New South Wales system and some prisons in Victoria, are not equated to the South Australian system. However, we certainly do have people who are involved in the drug industry in this state, and I would not rule out the possibility that attempts will be made to smuggle mobile phones into our prisons. I am assured that our search methods have been effective thus far. I think a small number of mobile phones have been confiscated by search over a period time. However, I will get those confiscation figures for South Australia as well as those of other states, if they are available, for the honourable member and bring back a reply.

REGIONAL DEVELOPMENT

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Industry, Trade and Regional Development a question about regional development initiatives.

Leave granted.

The Hon. CAROLINE SCHAEFER: I have been reading last year's budget speech and, amongst many other very solid commitments, there is:

> An initiative of more than $1.25 million will help regional employers to attract skilled migrants to boost their work force.

Can the minister say where that money was spent and how successful was the initiative?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I am pleased that the shadow minister has finally caught up with last year's budget. One would hope that she will read the 2004 budget's Regional Statement somewhat quicker than that.

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: The honourable member will not have to wait very long now, and nor will the honourable member who asked the question about the Regional Statement which will accompany this year's budget. In relation to the specifics of where that money was spent, I will take that question on notice and bring back a reply. On the anecdotal evidence that I have I know that the regional development boards have been successful in attracting business migrants to this state.

The Hon. Caroline Schaefer: How many?

The Hon. P. HOLLOWAY: As I have said, I will have to get the figures. The anecdotal evidence I have is that they have been particularly effective. However, I will get a more comprehensive reply for the honourable member.

SNOWTOWN NEWSAGENCY

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Industry, Trade and Regional Development and Minister for Small Business a question about the Snowtown newsagency.

Leave granted.

The Hon. J.S.L. DAWKINS: I am advised that the Lotteries Commission is insisting that the proprietors of the Snowtown newsagency agree to spend approximately $19 000 on a promotional in-store display. The proprietors have been advised that noncompliance will result in the removal of the agency. The net income from lotteries products at this newsagency is apparently less than $100 a week. Lotteries SA has advised agents that the promotional upgrade will increase profits by 1 per cent. It would not be difficult for members to estimate how long it would take the owners of the Snowtown newsagency to get a return on an investment of $19 000 if forced to do so. Not surprisingly, the newsagents have determined that the expense cannot be justified as it would make their business non-viable. As a result, it seems as though Snowtown will lose its Lotteries agency.

It is always a concern to me when a district centre loses another local service, resulting in local residents travelling to larger towns to access these facilities and, almost certainly, other commercial services at the same time. My question is: will the Minister for Small Business ask the Treasurer to intervene as a matter of urgency to prevent the removal of the Lotteries Commission agency from Snowtown?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I am certainly happy to take up the matter with the Treasurer. Obviously, the Lotteries Commission will have certain policies, and it will be answerable to the Treasurer in relation to those. To the extent that the issue is broader than just this case, I will ensure that the Small Business Development Council and the Office of Small Business in my department examine it to see whether broader issues need to be addressed. I certainly will take up the specific issue with the Treasurer.

The Hon. NICK XENOPHON: I have a supplementary question. Will the minister advise whether there has been any change in policy by the Lotteries Commission so that it is part of a more aggressive advertising or marketing campaign that would, in turn, impact on small businesses in regional communities?

The Hon. P. HOLLOWAY: Again, I will seek that advice from the Lotteries Commission via the Treasurer.

The Hon. J.F. STEFANI: I have a supplementary question. Will the minister advise the council how many more licences have been issued by the Lotteries Commission in the past 12 months?

The Hon. P. HOLLOWAY: Again, I will seek that information from the Lotteries Commission via the Treasurer.

ELECTRICITY, J TARIFF

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Industry, Trade and Regional Development, representing the Minister for

Energy, a question about the removal of J tariff electricity meters.

Leave granted.

The Hon. SANDRA KANCK: I have reason to believe that consumers may be paying for J tariff electricity meters in their homes that they no longer use. A constituent has informed me that, after installing a gas solar hot water service, and subsequently switching from AGL to Origin to utilise their green power scheme, he was told by Origin that they were able to remove this J tariff meter for a fee of $200. However, they did not recommend that this constituent use the service they provided (in fact, I think they counselled against it) because of the cost.

So, my constituent went back to AGL, whose response was that ETSA would need to do it, so my constituent went back to ETSA. Although ETSA was happy to consolidate the power account into a single reading so that the extra charge would no longer apply, and it offered to remove the J tariff meter free of charge, it would do so only after a licensed electrician had removed all connections to the meter. ETSA would not list the job for action until the electrician had disconnected the meter, and it then estimated that the meter would be removed after about three months.

When the electrician was called to do the job, my constituent was informed that, without a work authority from ETSA, he was unable to disconnect or remove the meter. The contractor explained that it was ETSA's role to remove the meter. Subsequent discussions between my constituent and ETSA resulted in ETSA's agreeing not to continue the $6 per quarter charge, although the meter has still not been removed. My constituent was not told initially that the charge for the J tariff meter would continue when the J tariff hot water system was removed. The information only came to light in discussions with Origin about transferring the account. My questions to the minister are:

1. Is the minister aware of the situation regarding removal of redundant J tariff meters?

2. Does the minister consider it appropriate that consumers be charged on ongoing fee for a meter that is not being used?

3. Given that this issue is essentially unresolved, what course of action will the minister take to ensure that the increasing number of consumers who switch to solar power are not burdened with this on-going and hidden cost?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): The honourable member has just given us an illustration of the joys of a privatised electricity market, where the responsibility for various tasks has been dispersed among myriad authorities. Obviously, somewhere a privatised company will be responsible for these meters. However, important policy questions have been raised by the honourable member and I will refer them to the Minister for Energy for his consideration to see whether some action can be taken through government regulatory authorities, if necessary, to address the issues she has raised, and will bring back a reply.

MITSUBISHI MOTORS

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Industry, Trade and Regional Development questions regarding Mitsubishi Motors and government purchased motor vehicles.

Leave granted.

The Hon. T.G. CAMERON: Recent figures released by *The Advertiser* show that Mitsubishi Australia is not getting a fair deal from either the state or federal government when it comes to buying government-owned motor vehicles. Holden and Ford receive orders for tens of thousands of Commodores and Falcons each year, but the state and federal governments lease only a handful of Magnas and Veradas from Mitsubishi. In South Australia in the first three months of 2004, of all state government motor vehicle purchases, just 13.6 per cent were Magna/Veradas, compared with 61 per cent for Holden Commodores and 21.8 per cent for Ford Falcon, which I do not think are even produced in South Australia. The figures for the federal government are even worse, with 83.7 per cent of large passenger vehicles bought being Falcons, 13.3 per cent Holdens and just 1.4 per cent Mitsubishi Magnas. I have not looked at the situation, but one can only suppose there are a number of Ford production plants in federal marginal seats.

Considering the precarious state of the company at this time, it would come as a bit of a shock to most people that only one in 10 vehicles bought by the state government is made by Mitsubishi. It makes you wonder about the sincerity of the state and federal governments' professed support. The figures for the federal government are less than one in 50. I can recall being secretary of the Australian Labor Party, and it was Labor Party policy for the state secretary to drive a vehicle manufactured here in South Australia. I can recall driving both a Magna and a Commodore. However, it is interesting to note that the Adelaide City Council is currently deliberately considering investing in more Mitsubishi cars. When one considers the hundreds and hundreds of millions of dollars that have been poured into Mitsubishi, with further large tranches of taxpayers' money due to be pumped in over the next few years, one must remain confused and somewhat quizzical about the actions of both the state and federal governments. My questions to the minister, therefore, are:

1. Considering that South Australia is the home of Mitsubishi Motors and that it employs thousands of South Australian workers both in its factories as well as in component supplies, why is just one in 10 vehicles purchased by the state government produced by Mitsubishi?

2. Will the minister, as a matter of urgency, review the current policy on state government motor vehicle purchases—I note that it is different from the Labor Party policy that they apply to themselves—so that a far more equitable arrangement is put in place?

3. Will the minister, as a matter of urgency, also make representations to his federal government counterpart to ask if it could possibly see its way clear to increase the number of Mitsubishi made vehicles leased and purchased from the figure of 1.4 per cent?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): It is my understanding that Mitsubishi vehicles represent about 6 or 7 per cent of the number of vehicles sold in this country. So, when this state purchases 13.6 per cent of its vehicle fleet from Mitsubishi it is actually buying significantly more than the share that Mitsubishi has in the marketplace. As far as other state governments are concerned, since the mid-1980s there have been agreements between all states that state preference will not be given in relation to purchasing policies because, if one state had a system where it bought only products manufactured in its state, obviously, small states like South Australia would be significantly disadvantaged relative to large states. For example, we already purchase significantly more than the

sale share of Magnas in the state through the state government. If we were to reach those agreements and purchase even more, there would be the risk that other states such as New South Wales and Victoria would purchase even less than they do now.

There are some issues in relation to this subject which need to be considered. Obviously, my colleague the Minister for Administrative Services has responsibility for this, so I will refer the questions to minister Wright for his considered reply. It is important to place on record the existence of those agreements and the fact that this state actually buys significantly more than the sale share of Mitsubishi vehicles nationally. As for the last part of the honourable member's question about the federal government, again, I will put that suggestion to my colleague to see whether he wishes to take it up with the federal government.

The Hon. NICK XENOPHON: I have a supplementary question. Will the minister bring back details of the purchasing criteria for motor vehicles for the state fleet? Do any of those criteria include the level of market share for a particular manufacturer in determining the level of purchases of state vehicles?

The Hon. P. HOLLOWAY: Again, I make the point that agreements have been in place between states for many years. It is important that they remain in place so that the purchase should be on the basis of value and economics. If those agreements were to be breached, South Australia would be the loser. I will see what further information the minister wishes to provide in relation to the purchase policies.

The Hon. J.F. STEFANI: Will the minister advise whether the leasing arrangements that the state government has with Fleet SA, whereby the government does not actually own the vehicles, preclude changing the type of vehicle that the government is supplied with? Or does the government have a fixed arrangement to supply a certain type of vehicle over the term of the leasing agreement?

The Hon. P. HOLLOWAY: I am aware of what the honourable member refers to. Some years ago there was an agreement under the previous government. I think, the Commonwealth Bank in some way funded a lease which turned out, after changes to commonwealth taxation, to be not such a good deal for this state. As it is not my portfolio I am, frankly, not certain of the exact status of that arrangement. I would be surprised if it had any impact on the types of vehicles chosen, but I think it is best that I refer that question to the Minister for Administrative Services for a more considered reply.

ELECTRICITY SUPPLY

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Industry, Trade and Regional Development, representing the Premier, a question about electricity.

Leave granted.

The Hon. D.W. RIDGWAY: Last year I asked the Premier a question about solar panels he had installed on his roof at his own expense after reading an article in the *Sunday Mail*. In the article, the Premier said:

> My house will only use part of the power that the panels produce.

I find this hard to believe as, in an answer to a question which I asked last year and which was supplied to me on Monday, the Premier stated that the total cost to him was $10 250. I then jumped onto the Origin Energy web site and found that a system with a size of 1 050 watts and an annual electrical output of 1 533 kilowatt hours would cost $14 050. After the government rebate it is a cost of $10 050, and I am assuming that the system the Premier had installed in his house was of that size. So, 1 533 kilowatt hours divided by 365 days is 4 200 watts per day, which means about 175 watts per hour. That indicates that, if all the Premier had on was three 60 watt light globes, he would not have any power left over to put back into the grid. My questions are:

1. What was the capacity of the system the Premier had installed, and is the Premier's statement that his house will use only part of the power the panels produce correct?

2. Will the Premier reveal whether the second point of his pledge to all South Australians—'We will fix the electricity system and bring cheaper power'—is any closer to being a reality today than it was 2½ years ago?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I am not really sure that the size of the Premier's electricity installation is an appropriate question for parliament. I will leave it to the Premier as to whether he wishes to answer. I think that my colleague the Hon. Bob Sneath has probably answered one part of the honourable member's question, in that the Premier is so busy attending functions that it would not surprise me at all that his consumption is fairly low. He probably spends very little time at his home. As to the latter part of the question, I think that all members would be well aware of the reason why electricity prices within South Australia are at the present levels.

It is all to do with the way in which the privatisation was handled by the previous government. Lew Owens has presented evidence to the electricity select committee, which is currently sitting. I think that, under the standing orders of that committee, that information is available on the web site. I suggest that if the honourable member reads that he will see a very good exposition by Mr Owens as to why electricity prices in this state are among the highest in the country and how we got into that position. The honourable member, and, indeed, all members of this council, would find that exposition very informative. My colleague the Hon. Bob Sneath knows because he is a member of that committee.

Essentially, if I can just give a little taste of it, it was because of the way in which, amongst other things, debt was shifted on to the generators during the sale by the previous government. That is why electricity prices are where they are. However, my colleague the Minister for Energy is actively addressing those matters.

The Hon. A.J. REDFORD: As a supplementary question, did the Premier speak to Lew Owens before he put on this card, entitled 'My Pledge To You', 'We will fix our electricity system, and an interconnector to New South Wales will be built to bring in cheaper power.'?

The Hon. P. HOLLOWAY: Again, if we look at Lew Owens' paper and consider the transcripts, we all know why we do not have an interconnector to the other states. Again, because of the pre-emptive action of the Leader of the Opposition in this place (who is not here today) in relation to the sale of electricity, a preference was given to the MurrayLink interconnector. I recommend that all members opposite and any member of the public who wants to understand what has happened in relation to electricity prices read Mr Owens' report to understand how much damage the previous government has done to the economy of this state through its handling of the electricity sale.

The Hon. A.J. REDFORD: I have a supplementary question. Will the minister rule out making any further promises that cannot be kept?

The PRESIDENT: The Hon. Mr Stefani has the call. I assume the minister is not answering that question.

MENTAL HEALTH, POLICE ATTENDANCE

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister for Industry, Trade and Regional Development, representing the Minister for Police, a question about police attendance on mental health patients.

Leave granted.

The Hon. J.F. STEFANI: Honourable members will be aware that many mental health patients are now residing in our community. I have been informed that some mental health patients who were previously able to access the support of a number of community organisations are now unable to do so because the Labor government has abolished the funding previously allocated to employ a qualified psychologist. I am further advised that, when mental health sufferers who are in crisis due to personal circumstances make contact with their community support organisation, the clerical and volunteer staff call the police to assist the people concerned. My questions are:

1. Will the minister confirm that the South Australia Police are often required to attend mental health sufferers when they reach crisis point?

2. Will the minister advise how many calls for assistance were received by the police to attend people with a mental health illness during the last 12 months?

3. Will the minister provide details of the policy developed and adopted by the government to assist our police force in dealing with this operational work?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I will take that question to the Minister for Police and provide a response. I am sure the Minister for Police will be pleased to outline the steps the government is taking in dealing with mental health problems—and, you never know, there might be some good news in the budget later this afternoon.

ANANGU PITJANTJATJARA LANDS

The Hon. A.L. EVANS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about the AP lands.

Leave granted.

The Hon. A.L. EVANS: Over the years, governments have funded numbers of programs to assist Aboriginal and Torres Strait Islanders gain employment in the South Australian public sector. At the end of the 2003 financial year approximately 682 Aboriginal people were identified as being employed by the South Australian public sector and 66 were employed in other public sector employment. It is my understanding that the percentage of Aboriginal people employed in the South Australian public sector is approximately 1.2 per cent of the total number of people employed. This figure is probably understated because of the difficulty of self-identification. Given the issue of unemployment on the AP lands, my questions are:

1. Will the minister advise the number of people on AP lands currently employed in public sector positions?

2. Will the minister provide information on the employee type for all AP lands public sector employees, including host employees?

3. Will the minister advise the total number of public sector traineeships or scholarships available to Anangu living on the AP lands, including those employed under CDEP?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his insightful questions. The position in relation to unemployment in the AP lands is chronic. Most of the CDEP programs that were set up in the early 1990s regarding training were abandoned with the removal of the TAFE infrastructure, which prevented any additional support training for Anangu in that period. The government is spending money to put TAFE teachers back on the lands, and that policy is firmly in place. I understand that the number of teachers who are currently operating in the AP lands are reporting that there is still unmet demand, so that is an issue for this and successive governments.

I do not have details on the public sector training programs, but I will get them. It is the government's intention to lift the percentage of Aboriginal employment in the public sector to reflect the percentage of Aboriginal South Australians, and we are continuing to pursue that policy, and to raise the number of traineeships and full-time positions. The problem as it is reported to me is that, unless there are critical numbers of traineeships for Aboriginal people in particular enterprises or government programs, support for individual Aboriginal trainees needs to be given special consideration because in some cases Aboriginal trainees and newly inducted employees feel as though they do not have cohort support, if you like, within the public sector or the private sector, where it is also a problem. Those issues are being looked at. I will also bring back for the honourable member the number of trainees who are currently being trained and employed within the public sector and the number of advertisements that are currently being placed so that we can get a grasp of the figures for Aboriginal people in employment and for those who could possibly be employed under the recruiting scheme that is in place.

The Hon. KATE REYNOLDS: I have a supplementary question. In his response to those questions, can the minister outline what specific strategies are being developed to encourage indigenous people from remote communities to take up those various public sector opportunities?

The Hon. T.G. ROBERTS: I will endeavour to get the numbers of employment programs which are currently being run in TAFE and which involve people from remote communities. There has been a link between the Noarlunga TAFE and the AP lands, and National Parks and Wildlife Service has offered a number of traineeships for young Aboriginal people and others to become park rangers. That linkage is being completed and a successful program is running.

Many opportunities exist in environment and heritage protection which potentially could be filled by Aboriginal people in remote communities. I have taken up this issue with the Whyalla training campuses, which have a lot of excess capacity for training, particularly of nurses, in remote regions. The young women being trained reside or board in Whyalla. One of the problems is that a lot of young people become very homesick and do not complete courses, and we must find a way. As I said earlier in relation to Aboriginal people, you must have back-up support, and that has proved too difficult in the past. However, we have to overcome it by

taking the training programs into the remote regions, and the technology is now available for us to do that.

I have had some advice that Aboriginal people interested in providing community health services could be trained in situ in their own communities, and they would be taken out of their communities from time to time for specialist upgrading of skills. That is a preferred way of dealing with Aboriginal training programs for the self-management of community health, and it is something we are looking at as a strategy. I will endeavour to get those figures from the various agencies for the honourable member and bring back a reply.

The Hon. J.F. STEFANI: I have a supplementary question. Will the minister advise the council:

1. How many Aborigines are currently in training programs at the TAFE campuses in Whyalla and Coober Pedy, and in what courses are they registered to be trained?

2. Is there a building maintenance program in the AP lands and, if so, how many Aborigines are involved in the maintenance of assets in the AP lands?

The Hon. T.G. ROBERTS: I will endeavour to obtain those figures from the Aboriginal Housing Authority (AHA) for the honourable member. At a personal level, I have spoken to some of the contractors who were putting in place some houses on the lands. A number of young people were attached to their contracts as part of the tendering process, which included an in-built training responsibility for the successful tenderers. The responses from those contractors were varied in that in the long term they were unable to secure the number and type of person with the skills development required. However, it is one of those issues where, if the private sector is to be responsible for training and mentoring, some support has to be provided through the contract arrangements to allow that to happen, particularly in the remote regions. It makes sense to use the potential skills development of young people within the lands, and that is one of the challenges for government. That is what we are trying to do through the TAFE training programs and the AHA.

I understand that a program is running in Port Pirie, where a home building program is attached to the TAFE campus. I do not think it comes under the auspices of TAFE but is run by a private contract. However, young Aboriginal people are brought in and trained, and they build a very good product. There is a very good market for the product that they build, so it is a matter of matching the product development of the transportable homes, or the homes to be put in a fixed position, and the training skills required to build up the numbers. I will bring those figures back for the honourable member.

The Hon. R.D. LAWSON: I have a supplementary question arising from the answer. In the information that the minister has agreed to bring back, will he provide a calculation of the aggregate of public sector wages and salaries paid to indigenous employees on the lands over each of the last two years and also the comparable figure for the public sector wages and salaries paid to non-indigenous people on the lands?

The Hon. T.G. ROBERTS: I point out to the honourable member that a number of people are employed in education, health and housing on the lands. However, many of the services are subcontracted to, say, Nganampa Health, which has a number of Aboriginal people who provide health services at a community level, but they would not be included in a count of those working in the public sector. It will be very difficult to get a complete picture of the number of Anangu who work in the public sector within the AP lands, but I will endeavour to obtain a breakdown of that number from the direct payment figures, which I think would be reasonably easy to ascertain. I will bring back that information.

The Hon. R.D. LAWSON: I have a further supplementary question in light of the minister's answer. In addition to the figures for public sector wages and salaries, will the minister provide information on the same basis for publicly funded wages and salaries?

The Hon. T.G. ROBERTS: I will endeavour to do so.

WAGNER'S *RING* CYCLE

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I table a ministerial statement on the *Ring* cycle made today by the Hon. John Hill.

MEDICAL PRACTITIONER INVESTIGATION

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I table a ministerial statement into an investigation into a doctor made today by the Hon. Lea Stevens.

CORRECTIONAL SERVICES TARGETS

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Minister for Correctional Services a question about Correctional Services targets.

Leave granted.

The Hon. A.J. REDFORD: Last year, when the Treasurer, Hon. Kevin Foley, presented his budget, a number of targets for the 2003-04 year were announced in the budget of the Department for Correctional Services. They were described as 2003-04 targets and included:

- a review and reconfiguration of the correctional system in line with the Department of Corrections 'Towards 2020' strategic planning document;
- a complete outline of the business case for the new men's prison;
- an increase in the prison system capacity by 50 beds;
- a review of the department's progress against the recommendations of the Royal Commission into Aboriginal Deaths in Custody;
- work with justice agencies and other agencies to develop a broader range of sentencing options;
- the upgrade of prison fire safety systems;
- the improvement of management information for decision-making and monitoring offender outcomes; and
- to enhance rehabilitation programs, including a new cognitive skills program, to reduce reoffending.

It also referred to the 2002-03 highlights, including a business case for a new women's prison, described as a 'public-private partnership'. We all know deep down that this minister is a right-winger at heart and would not strongly embrace public-private partnerships in relation to prison services.

The PRESIDENT: That is very close to opinion, the Hon. Mr Redford.

The Hon. A.J. REDFORD: I apologise, Mr President, but I am sure it is one on which the Hon. Terry Roberts might care to comment. I have no doubt that, when the budget is tabled this afternoon, I will turn to the appropriate pages and

there it will be—all ticked off. Although this is not a high profile area, the minister will look at the camera and say, 'It's all ticked off.' Of course, I will be most interested to see what will happen with the women's prison, because a lot of people are quite excited about its construction. I know that the Hon. Andrew Evans has been following that issue very closely. My questions in relation to the 2003-04 targets are:

1. What alternative sentencing options have been developed over the past 12 months in relation to the 2003-04 target?

2. When does the minister anticipate the completion of the women's prison, which has been announced on a number of occasions?

The Hon. T.G. ROBERTS (Minister for Correctional Services): I thank the honourable member for his continuing interest in all matters correctional. I have to correct an opinion that the honourable member proffered that I was a right-winger. Many of my friends are members of the right, but I am not a member of the right. I thought I would correct that by way of a personal explanation included in the answer to the question. The outcome for the alternative sentencing question is one in which I am interested as Minister for Correctional Services, but the driving of the policy development rests with the Attorney-General's office, and I will certainly bring back a reply as to what progress has been made.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: In relation to the interjection, which is out of order, the number of home detention orders have been increased, as the honourable member understands from a previous question he asked.

The Hon. A.J. Redford: A broad range of sentencing options—I can't think of one.

The Hon. T.G. ROBERTS: The community corrections programs we are running in the community have increased considerably since we have come to government. There have been a number of alternative programs for community corrections to assist community organisations with the support and assistance of people who have been given alternative sentences to imprisonment, and I welcome that. The previous government's policy was similar. We do not want to use prison as the first option but, rather, try alternatives before prison sentences, and we are continuing with that. I have explained some programs to the council (particularly over the past 12 months) in which the Department of Correctional Services is involving itself. There are some expanded programs that—

The Hon. A.J. Redford: But not a broader range?

The Hon. T.G. ROBERTS: We are working on a broader range.

The Hon. A.J. Redford: But there have not been any yet.

The Hon. T.G. ROBERTS: We have to get cooperation, particularly where work programs are concerned inside prison—another alternative on which we are working. You have to get the cooperation of the private sector to enable you to carry them out. The other question the honourable member asked was in relation to the women's prison. We are looking at options in relation to all of our correctional services structures. It is not something that will take place over one budget.

As the honourable member knows and understands, the amount of funding required for infrastructure for changing particularly the men's prison at Yatala is substantial. The infrastructure is tired and, as a government, we will be working overtime to change the circumstances to bring it up to a standard that this government and the opposition will be happy with to bring about the required results, on which we are working: namely, rehabilitating those prisoners in our system and making sure we run prevention and rehabilitation programs in a professional way that meets the international standards required. We are working on that. The moneys we have expended, particularly on sex offenders—an initiative the previous government was not prepared to tackle—and for Aboriginal prisoners is such that our record stands as being as good as any in Australia.

BARLEY MARKETING

The Hon. IAN GILFILLAN: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Agriculture, Food and Fisheries, a question about barley marketing.

Leave granted.

The Hon. IAN GILFILLAN: In yesterday's *Australian*, the federal trade minister, Mark Vaile, said that the government maintained that the single desk arrangement for wheat provided a benefit to farmers through economies of scale and improved access to global markets without artificially distorting prices. It is clear that certain sections of the federal government recognise and endorse the benefits of single desk marketing of some rural produce into world markets where single small players get slaughtered. It is generally accepted in South Australia that the same principle (the advantage of the single desk for wheat) applies to the single desk for barley. However, the publicity that has come forward and some media statements released by the current minister, the Hon. Rory McEwen, indicate that he, and I assume the government, are not prepared to fight for the retention of the barley single desk in South Australia.

It is some comfort to know that the opposition has declared that it will block any change in legislation that would remove the single desk for a certain period of time. It is interesting that they feel that they can block it single-handedly, whereas my counting of numbers is such that they cannot do that on their own. However, for many years the Democrats have clearly stated their support for the single desk in marketing of barley in South Australia, and that will continue. My questions are:

1. Does the minister agree that single desk marketing secures the best long-term revenue for South Australian barley growers with consequent substantial ongoing benefits through flow-on to the whole state?

2. Does the minister accept that in the case of chicken meat growers (a situation which we addressed some months ago), the state chose to forgo the $0.29 million from the national competition grants annually to retain the principle and right for chicken meat growers to collectively negotiate price? What is the difference between barley growers of South Australia collectively negotiating on a world market and chicken meat growers collectively negotiating in South Australia?

3. Why is the minister not prepared to fight for the barley growers of South Australia and to collectively negotiate export price in a world market? That world market is ready to play non-single desk fragmented export marketers for suckers.

4. Does the minister know that the Treasurer has budgeted for a $50 million surplus this year, rising steeply in successive years, which is well capable of resisting the bullying of the national competition policy and the National Competition

Commission? One assumes that this is with the tacit approval of the federal Treasurer's bullying.

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): In regard to the first question, I am certainly not going to send the honourable member out with a shopping list for me if he cannot tell the difference between barley and chicken. I will refer those questions to the minister in another place and bring back a reply.

The Hon. CAROLINE SCHAEFER: I have a supplementary question which arises from the answer. Is the minister aware that the Chicken Meat Industry Bill, which passed both houses some 12 months ago, has never been enacted? Can he tell us why?

The Hon. T.G. ROBERTS: I will refer that question to the minister in another place and bring back a reply.

ASBESTOS

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Industrial Relations, a question about asbestos-related illnesses and deaths.

Leave granted.

The Hon. NICK XENOPHON: Last Sunday's ABC Radio National program *Background Briefing* broadcast a story called 'Asbestos: the fibro legacy'. The story reflected on the huge human and economic cost of asbestos exposure, with 500 Australians a year dying from mesothelioma, a terrible cancer of the chest cavity, and the number of deaths not peaking until late this decade. I understand that at least as many other deaths are expected from other asbestos-related cancers.

Background Briefing focused on the risk posed to home renovators as the emerging new wave of asbestos-related illnesses and deaths, given the long latency period of up to 35 years involved. The story also quoted Sir Llew Edwards, chairman of the trust set up by the building products giant James Hardie, to handle its asbestos claims. That fund is running out of money to compensate the victims of future claims with allegations that James Hardie has woefully underfunded that trust fund. Professor Bruce Robinson of the National Health and Medical Research Council on asbestos illness is seeking $250 million from companies and the government over 10 years to help find a cure for mesothelioma.

Professor Robinson is confident that a cure can be found based on runs already on the board. This compares to the estimated $5 billion to $6 billion that was paid out in compensation to victims of asbestos companies, insurance companies and governments over the next 40 years. My questions to the minister are:

1. What education campaigns are in place to warn home renovators of the risks involved in renovating houses built before 1983—the cut-off date before asbestos products stopped being used in our homes?

2. Given the extensive media statements of Sir Llew Edwards (Chairman of the Medical Research and Compensation Fund for Asbestos Victims) that there will be a massive shortfall to fund future claims, what impact has the government estimated that will have on liabilities of the WorkCover scheme, the state government as employer in particular, and other employers in the state?

3. Has the government been approached by the NH&MRC to fund research for a cure for asbestos-related diseases, particularly mesothelioma, considering the huge potential benefit this could have in saving lives and lessening the economic impact of this scourge?

4. What attitude has the government got in providing funding for such research?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer those questions to the minister in another place and bring back a reply.

REPLIES TO QUESTIONS

MURRAY RIVER

In reply to **Hon. CAROLINE SCHAEFER** (26 February).

The Hon. P. HOLLOWAY: The Minister for the River Murray advises the following:

1. As I have previously advised my colleagues on 22 March 2004, 'flows in the Darling River have been saline because of the heavy rainfall in Queensland and northern New South Wales after a very long dry spell. Early predictions indicate that this highly saline water would raise salinity levels in South Australia. South Australian agencies have worked closely with their counterparts in New South Wales and commission officials to minimise the impact on the River Murray salinity in this State. Much of the salinity slug from the Darling flow has now been diverted into Lake Victoria'.

Early indications are that this action has averted the worst case scenario, which had suggested that salinity levels could have risen to about 900 EC at Morgan. However, the latest predictions suggest that the combined effects of a number of operational actions carried at the various regulating structures from Euston Weir to Lock 7 and Lake Victoria have now reduced the estimated salinity peak at Morgan to a little over 600 EC. The potential impact seems to have been minimised to water users downstream, and SA Water and the Murray-Darling Basin Commission will continue to monitor the situation closely.

2. The releases from Menindee Lakes are not expected to cause any significant or extended change in salinity levels beyond that forecast under 'normal' operating conditions.

NATIVE VEGETATION

In reply to **Hon. CAROLINE SCHAEFER** (15 October 2003).

The Hon. P. HOLLOWAY: Informal advice received from Department of Water, Land and Biodiversity Conservation (DWLBC) regarding the matter indicated that the change to the exemption was unintentional.

Following discussions between the Department of Primary Industries and Resources and DWLBC, the Native Vegetation Regulations 2003 were amended in order to re-instate the exemption for Heritage Agreement areas. The amendment was gazetted on 13 November 2003.

FISH KILLS

In reply to **Hon. J.S.L. DAWKINS** (23 February).

The Hon. P. HOLLOWAY: The Minister for River Murray has provided the following information:

1. The recent reported fish kill in the Lower Darling River has already been discussed in detail with officers from the Murray-Darling Basin Commission in relation to managing the first flush of water for over 12 months down this section of the Darling River.

2. In relation to any potential impacts on water quality in South Australia, factors such as mixing, dilution and water turbulence downstream of the confluence of the tributary invariably mitigate parameters that lead to fish deaths from events such as those referred to in the Darling and Goulburn Rivers. Consequently the impact in South Australia on water quality parameters such as dissolved Oxygen and organic demand is minimal and unlikely to cause any concerns

The Commission office and officers from NSW and SA are working together on trying to determine the cause of the fish kills.

The Minister for Agriculture, Food and Fisheries has provided the following information:

The Department of Primary Industries and Resources (PIRSA) fishery managers and researchers have been liaising with fish specialists in NSW and Victoria to ensure the Department is kept well briefed on the causes and implications of the recent interstate fish kills. I am advised that there is no evidence to suggest that either fish kill event was caused by a pathogen.

While it is yet to be confirmed, the fish kill that occurred in the Darling River is likely to have been caused by a combination of three environmental factors, including:

- A sudden increase in water temperature;
- A sudden spike in salinity; and
- A sudden reduction in oxygen levels.

The Menindie Lakes in NSW have been very low for some time and the recent heavy rains in QLD have allowed them to fill. Just prior to the fish mortality event in the Darling River, water was released into the system from the Menindie Lakes. The high temperature of the empty Lake substrate caused by extended drought, resulted in the water entering the Lakes to heat up to abnormally high temperatures.

When this water was released into the Darling River, its temperature exceeded the acceptable range for most fish species. The water was also thought to be high in salinity and low in dissolved oxygen, due to high evaporation and the water flowing over land-based detritus on the dry lake bed, the detritus absorbing the oxygen from the water.

Most fish species are able to sustain slow minor changes in temperature, dissolved oxygen and salinity. However, when all three parameters change relatively quickly, and at the same time, tolerances are exceeded. I am unable to shed further light on the exact cause of the recent fish mortality event on the Goulburn River in Victoria at this stage. I am advised that research and monitoring is still underway to determine the exact cause if possible.

A fish kill protocol is currently being developed by the Murray-Darling Basin Commission (MDBC) Fish Management and Scientific Committee, to ensure the incidence of fish kills throughout the Basin is minimised and to ensure a consistent approach to addressing fish kills when they occur. PIRSA fishery managers and scientists are members of this committee. This fish kill will be discussed at their next meeting scheduled for the end of March.

The recently established South Australian Lower Murray Management Committee, comprised of representatives from all State Government agencies involved in managing the River Murray and Lower Lakes and Coorong region, will also help to ensure in future that any impacts on fish stocks associated with water flow management are minimised. PIRSA Fishery managers have also been liaising with water flow managers in the Department of Water, Land and Biodiversity Conservation, to ensure the likelihood of similar fish kill events is minimised in South Australia.

STATUTES AMENDMENT (CO-MANAGED PARKS) BILL

Received from the House of Assembly and read a first time.

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I move:

That this bill be now read a second time.

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

Leave granted.

The *Statutes Amendment (Co-managed Parks) Bill 2003* sets out arrangements under which the Unnamed Conservation Park located in the north-west of the State will be managed, along with the establishment and management of future co-managed parks.

The planned hand-over of the Unnamed Conservation Park, and the provision for co-management of the Park, will require legislative changes to both the *Maralinga Tjarutja Land Rights Act 1984* and the *National Parks and Wildlife Act 1972*.

The Unnamed Conservation Park was proclaimed in 1970 and forms a 21 000 square kilometre part of the Great Victoria Desert and Nullarbor regions of South Australia. The Park takes up parts of the Great Victoria Desert along the Western Australian border and the Nullarbor Plain north of the Transcontinental Railway line.

This Park is of significant biological and conservation value. It is home to a number of rare species, and species restricted in range. It is also of great cultural significance to its traditional Aboriginal owners, many of whom live in Oak Valley to the east of the Park, and Tjuntjuntjarra to the west. The Park features the Serpentine Lanes, an ancient Palaeozopic drainage channel, as well as archaeological deposits and landforms important to them. The land is pristine, absolutely natural bushland which is now recognised as a Biosphere Reserve and has open woodlands, shrublands of mallee, marble gum, mulga and black oak.

This will be the single largest land rights hand-over since the Maralinga lands in 1984, when a vast area of land was returned to its traditional Aboriginal owners under the *Maralinga Tjarutja Land Rights Act 1984*. Since the Maralinga hand-over, the ownership and management of the Unnamed Conservation Park has been under discussion. Talks began in October 2002 about the possibility of transferring the Park to its traditional Aboriginal owners under the *Maralinga Tjarutja Land Rights Act 1984*, while retaining the status of the land as a conservation park, preserving public access rights and making sure there would be no mining in the Park. Negotiations have also addressed the long term co-operative management of the Park by its Aboriginal owners and the Department for Environment and Heritage. These negotiations have included State Government representatives and representatives from Maralinga Tjarutja, a body corporate of whom all traditional owners are members, and people from Tjuntjuntjarra in Western Australia, (representing Pila Nguru Aboriginal Corporation). The people from Tjuntjuntjarra were identified in an anthropological report of 2003 by Scott and Annie Cane, as those who should be consulted as traditional Aboriginal owners of the Park.

The Department for Environment and Heritage has been involved in fostering Aboriginal partnerships in park management for some time. This Bill includes provisions for the co-management of the Unnamed Conservation Park, as well as a generic scheme for the possible co-management of other National and Conservation Parks under the*National Parks and Wildlife Act 1972*.

The draft Bill was released for consultation with representatives for Maralinga Tjarutja, Pila Nguru Aboriginal Corporation, the Aboriginal Legal Rights Movement Incorporated and the Conservation Council of South Australia.

The *National Parks and Wildlife Act 1972* will be amended thus:

Categories of Co-managed Parks

Section 35(2) of the *National Parks and Wildlife Act 1972* will be amended to reflect the possibility of Aboriginal ownership of reserves under the Act.

An Aboriginal-owned National Park or Conservation Park may arise in two ways. It may be the result of the hand back of an existing Crown-owned National Park or Conservation Park and vesting in the traditional Aboriginal owners under a relevant act, as is proposed by this measure.

Alternatively, it may arise as a result of a request by people representing the registered proprietor of Aboriginal owned land, (for example, land vested in the Anangu Pitjantjatjara body corporate under the *Pitjantjatjara Land Rights Act 1981*.)

In the latter instance, the land would also need to be proclaimed as a new National Park or Conservation Park under the *National Parks and Wildlife Act 1972*.

As well as providing for the co-management of Aboriginal-owned Parks, the legislation also provides for the co-management of National Parks or Conservation Parks held by the Crown, by a co-management board, and the co-management of National Parks or Conservation Parks held by the Crown under an advisory management structure, as appropriate in the circumstances.

Co-management Agreement

The Bill amends the *National Parks and Wildlife Act 1972* so that the Minister may enter into a co-management agreement with the registered proprietors of land, (or the body in which the land is to be vested) in the case of Aboriginal owned parks, or 'a body representing the interests of the relevant Aboriginal group' in the case of parks held by the Crown. Entering into a co-management agreement (with or without the transfer of title in relation to the underlying land) will not change existing arrangements in relation to third parties.

The co-management agreement may address matters including:

- the constitution of the board (if one is to be constituted);

- the preparation and implementation of a management plan for the park;
- funding arrangements; and
- employment of staff and dispute resolution.

A co-management agreement may also provide for its variation.

A co-management agreement over land that was Aboriginal-owned land before the park was constituted, may be terminated unilaterally, provided any minimum time period specified in the agreement has elapsed. In this case, the termination of the co-management agreement will also result in the land ceasing to be a park under the *National Parks and Wildlife Act 1972*. This reflects the former status of the land as Aboriginal-owned land.

A co-management agreement over land that was a Crown-owned park before becoming an Aboriginal-owned park, such as the Unnamed Conservation Park, can only be terminated by agreement between the Minister and the registered proprietor of the land.

In this case, the termination does not affect the status of the land as a park under the *National Parks and Wildlife Act 1972*. Should the agreement be terminated the land would then continue to be managed by the Director as a park under that Act, although the underlying title to the land would remain vested in the Aboriginal owners.

A co-management agreement over a park that is constituted of land held by the Crown may only be terminated by the Minister. Again, the status of the land as a park is not affected.

Co-management Boards

The Bill amends the *National Parks and Wildlife Act 1972* to provide that the Governor may establish by regulation a co-management board for a co-managed park.

The regulations establishing a co-management board for a co-managed park constituted of Aboriginal-owned land must also provide that:

- the board has a majority of members who are members of the relevant Aboriginal group;
- that it be chaired by a person nominated by the registered proprietor of the land; and
- that the quorum of the board has a majority of members who are members of the relevant Aboriginal group.

The ownership of a co-managed park constituted of Crown land will remain with the Crown, but any board of a co-managed park will be appointed following negotiations with the relevant traditional owners.

Where a co-management board is established for a co-managed park, the park is placed under the control of the board. Certain other powers of the Minister and Director are also given to the board such as the right to set entry fees for the park. It will be decided on a case-by-case basis whether or not a board is to be constituted for a Crown-owned, co-managed park.

A co-management board may be dissolved if the co-managed park is abolished or the co-management agreement for the park is terminated. A co-management board may be suspended if the Minister is satisfied that it has continually failed to properly discharge its responsibilities.

Aboriginal Hunting and Food Gathering

Another important amendment affects section 68D of the *National Parks and Wildlife Act 1972*. This amendment provides for the regulation of Aboriginal hunting and gathering by the co-management board for the relevant park, or in accordance with the provisions of the co-management agreement for the park if there is no board.

Amendments to the *Maralinga Tjarutja Land Rights Act 1984*:

The provisions constituting a board of management for the Unnamed Conservation Park have been included in the *Maralinga Tjarutja Land Rights Act 1984*. Although these provisions substantially replicate those included in the *National Parks and Wildlife Act 1972*, this was done to meet the specific request of Maralinga Tjarutja that the co-management board for the Unnamed Conservation Park be established under their Act.

This Bill also amends the *Maralinga Tjarutja Land Rights Act 1984* to vest the Unnamed Conservation Park in Maralinga Tjarutja, to provide for uninterrupted public access to the Park, and to exclude the application of the mining regime in that Act from the Unnamed Conservation Park. It is anticipated that Maralinga Tjarutja will request that the name of the Park be changed to reflect its significance to its traditional owners.

I commend this Bill to the House.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Maralinga Tjarutja Land Rights Act 1984*

4—Amendment of section 3—Interpretation

This clause amends section 3 of the principal Act by inserting the definitions of ***co-management agreement*** and ***co-management board***, those terms being used in relation to the Unnamed Conservation Park. The clause also inserts a definition of ***Unnamed Conservation Park***.

5—Amendment of section 5—powers and functions of Maralinga Tjarutja

This clause amends section 5 of the principal Act to provide Maralinga Tjarutja with the power to enter a co-management agreement.

6—Insertion of Part 3 Division 1A

This clause inserts new Division 1A into Part 3 of the principal Act. The Division provides for the establishment of a co-management board by regulation, and sets out requirements, powers and procedures in relation to the board.

7—Amendment of section 17—Rights of traditional owners with respect to lands

This clause inserts a new subsection (2) into section 17, which provides that traditional owners' rights of access to the Unnamed Conservation Park are subject to the provisions of the *National Parks and Wildlife Act 1972*.

8—Amendment of section 18—Unauthorized entry upon the lands

This clause amends section 18 of the principal Act by inserting a new paragraph (ga) into subsection (11), stating that the section does not apply to entry upon the road reserve described in the third schedule and the Unnamed Conservation Park.

9—Insertion of section 20A

This clause inserts new section 20A into Division 4 of Part 3, which provides that the Division does not apply to the Unnamed Conservation Park.

10—Amendment of section 30—Road reserves

This clause makes a minor technical amendment to section 30 of the principal Act.

11—Amendment of the first schedule

This clause amends the first Schedule of the principal Act to include within the Maralinga Tjarutja lands the Unnamed Conservation Park.

12—Amendment of the second schedule

This clause amends the second Schedule of the principal Act to insert a map amended to reflect the inclusion of the Unnamed Conservation park within the Maralinga Tjarutja lands.

Part 3—Amendment of *National Parks and Wildlife Act 1972*

13—Amendment of section 5—Interpretation

This clause amends section 5 of the principal Act by inserting definitions of ***Aboriginal***, ***Aboriginal-owned***, ***Aboriginal person***, ***relevant Aboriginal group*** and ***traditional association***. The clause also inserts amendments of ***co-managed park***, ***co-management agreement*** and ***co-management board***.

14—Amendment of section 20—Appointment of wardens

This clause substitutes a new subsection (3) for subsections (3) and (4) of section 20 of the principal Act. This new subsection provides that the appointment of a warden under subsection (1) may be subject to conditions or limitations. The clause also inserts a new subsection (7), which provides that the Minister may not appoint a warden with powers limited in application to a co-managed park without the agreement of the co-management board (or the other party to co-management agreement if there is no board).

15—Amendment of section 22—Powers of wardens

This clause amends section 22 of the principal Act by inserting new subsection (8), which provides that a warden must not exercise a power under the Act in relation to a co-managed park contrary to the co-management agreement for that park.

16—Amendment of section 27—Constitution of national park by statute

This clause amends section 27 of the principal Act by inserting new subsection (6), which requires that certain proclamations must not be made in relation to a national park

constituted of Aboriginal-owned land without the agreement of the registered proprietor of the land.

17—Amendment of section 28—Constitution of national parks by proclamation

This clause makes an amendment to section 28 of the principal Act similar to the amendment by clause 16.

18—Insertion of section 28A

This clause inserts new section 28A into the principal Act, and provides that co-managed national parks comprised of Aboriginal-owned land that was Aboriginal-owned land cease to be national parks upon termination of the co-management agreement for that park.

19—Amendment of section 29—Constitution of conservation park by statute

This clause makes an amendment to section 29 of the principal Act similar to the amendment by clause 16.

20—Amendment of section 30—Constitution of conservation parks by proclamation

This clause makes an amendment to section 30 of the principal Act similar to the amendment by clause 16.

21—Insertion of section 30A

This clause inserts new section 30A into the principal Act, and provides that co-managed conservation parks comprised of Aboriginal-owned land that was Aboriginal-owned land cease to be conservation parks upon termination of the co-management agreement for that park.

22—Amendment of section 35—Control of reserves

This clause makes an amendment to section 35 of the principal Act, providing that co-managed parks are under the control of the co-management board, or, if there is no board, of the Minister (subject to the provisions of the co-management agreement). The clause also substitutes "relevant authority" for "Minister" and "Director" to reflect the role of the co-management boards, and defines who is a relevant authority.

23—Substitution of section 36

This clause amends section 36 of the principal Act to provide that co-managed parks are under the management of the co-management board for the park, or, if there is no board, under that of the Director. The clause further provides that, in relation to a co-managed park, the board or the director must comply with the provisions of the co-management agreement for the park.

24—Amendment of section 37—Objectives of management

This clause makes a consequential amendment to section 37 of the principal Act, and inserts a new paragraph (k), setting out an objective for the preservation and protection of Aboriginal sites, features, objects and structures of spiritual or cultural significance within reserves.

25—Amendment of section 38—Management plans

This clause amends section 38 of the principal Act by making provision for the preparation by the Minister, in collaboration with a co-management board, of management plans in relation to co-managed parks. If there is no co-management board for the park, the Minister must consult with the other party to the co-management agreement. However, such a plan need not be prepared in relation to a newly constituted co-managed park if a management plan has already been adopted under the section prior to the constitution of the co-managed park. The Minister must also have the agreement of a co-management board, or if no board the other party to the co-management agreement, to exercise a power under subsection (9) in relation to a proposed plan of management for a co-managed park. The clause also provides that a plan of management in relation to a co-managed park must deal with the matters required by regulation.

26—Amendment of section 42—Prohibited areas

This clause makes an amendment to section 42 of the principal Act providing that the Minister may only make a declaration under subsection (1) in relation to a co-managed park with the agreement of the co-management board for the park, or, if there is no board, the other party to the co-management agreement. The clause also provides that the Minister may exempt members of the relevant Aboriginal group from any restriction imposed in relation to a co-managed park.

27—Amendment of section 43—Rights of prospecting and mining

This clause makes an amendment to section 43 of the principal Act requiring the agreement of the registered proprietor before making a proclamation under the section in relation to a co-managed park constituted of Aboriginal-owned land.

28—Amendment of section 43C—Entrance fees etc for reserves

This clause makes an amendment to section 43C of the principal Act defining "relevant authority" and substituting that term for "Director" in the section. This reflects the involvement of co-management boards in relation to co-managed parks.

29—Insertion of Part 3 Division 6A

This clause inserts Division 6A into Part 3 of the principal Act, the Division setting out provisions relating to co-managed parks. New section 43E sets out the objects of the Division.

New section 43F provides for the entering of a co-management agreement to co-manage a national or conservation park between the Minister, the registered proprietor of the land or a body representing the interests of the relevant Aboriginal group. The agreement may be for land which is Aboriginal-owned land, or it may be over land which is Crown land, but which an Aboriginal group or community has a traditional association. The clause also sets out the matters a co-management agreement may provide for, and for variation or termination of an agreement.

New section 43G allows the establishment of co-management boards by regulation, and sets out the matters the regulations may address.

New section 43H establishes the corporate nature of a co-management board.

New section 43I provides for the dissolution or suspension of co-management boards under certain circumstances.

New section 43J provides for staffing arrangements for co-management boards.

New section 43K requires accounts to be kept, and provides for annual audits by the Auditor-General of co-management board accounts. New section 43L provides for the provision of an annual report by a co-management board.

30—Amendment of section 45A—Interpretation and application

This clause inserts a new subsection (2) into section 45A, providing that Part 3A does not apply to a co-managed park constituted of Aboriginal-owned land.

31—Amendment of heading to Part 5A Division 2

This clause makes a minor amendment to the heading of Part 5A Division 2 to reflect currently preferred terminology.

32—Amendment of section 68C—Interpretation

This clause deletes subsection (1) of section 68C of the principal Act, the definitions having been moved to section 3.

33—Amendment of section 68D—Hunting and food gathering by Aborigines

This clause amends section 68D of the principal Act to make provision for the taking of native plants and animals etc from a co-managed park where the taking of those things is done with the permission of the co-management board for the park, or is in accordance with the co-management agreement for the park.

34—Amendment of section 68E—Exemption from requirement to hold hunting permit

This clause makes a consequential amendment to section 68E of the principal Act.

35—Amendment of section 79—Wilful damage to reserve or property of Minister or relevant board

This clause makes a consequential amendment to section 79 of the principal Act to reflect the role of co-management boards.

The Hon. CAROLINE SCHAEFER secured the adjournment of the debate.

STATUTES AMENDMENT (INTERVENTION PROGRAMS AND SENTENCING PROCEDURES) BILL

The House of Assembly requested that a conference be granted to it respecting a certain amendment in the bill. In the event of a conference being agreed to, the House of Assembly would be represented at the conference by five managers.

HEALTH AND COMMUNITY SERVICES COMPLAINTS BILL

The House of Assembly agreed to amendments Nos 1, 3, 6 to 8, 10 to 12, 17, 22, 24 and 36 made by the Legislative Council without any amendment; agreed to amendment No. 25 with the amendment indicated in the annexed schedule; and disagreed to amendments Nos 2, 4, 5, 9, 13 to 16, 18 to 21, 23, 26 to 35 and 37 to 42 as indicated in the following annexed schedule:

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

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

House of Assembly's amendment thereto-

Delete "Commissioner" and insert in lieu thereof "HCS Ombudsman

[Schedule of the amendments made by the Legislative Council to which the House of Assembly has disagreed]

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

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

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

this Act

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

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

"public authority" means—

(a) a government agency; or

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

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

Application of Act

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

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

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

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

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

Part 2—Health and Community Services Complaints Commissioner

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

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

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

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

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

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

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

the Commissioner

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

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

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

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

No. 26. Page 17, lines 21 and 22 (clause 23)—Leave out all words in these lines after "died—" in line 21 and insert:

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

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

Commissioner may, in such manner as the Commissioner

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

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

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

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

under this Part

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Protection of certain information

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

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

(2) A person who does anything in accordance with this Act, or as required by or under this Act, cannot, by so doing, be held

to have breached any code of professional etiquette or ethics, or to have departed from any acceptable form of professional conduct.

No. 39. Page 46—After line 35 insert new clause as follows:
Consideration of available resources

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

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

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

(2) In subsection (1)—

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

No. 40. Page 46—After line 35 insert new clause as follows:
Interaction with Ombudsman Act 1972

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

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

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

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

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

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

Consideration in committee.

Amendment No. 25:

The Hon. T.G. ROBERTS: I move:

That the House of Assembly's amendment to amendment No. 25 of the Legislative Council be agreed to.

The Hon. A.J. REDFORD: This was dealt with late last night and I have not had an opportunity to read it. We might ultimately agree with this proposition, but I am not in any position to make a decision as to what our position is. So, at this stage, our position is that the whole lot ought to go to a deadlock conference and that will give us the opportunity to deal with it there. I indicate that we should insist on all of the Legislative Council amendments.

The Hon. SANDRA KANCK: I am seeking clarification. Is the government returning this clause, which is 23H in the bill as we dealt with it, back to its original?

The CHAIRMAN: Yes, from commissioner to HCS ombudsman.

The Hon. P. HOLLOWAY: It is simply to make it consistent. It is an inevitable consequence of consistency, as I understand it. It has to be put separately because it is a House of Assembly amendment.

The Hon. A.J. REDFORD: We oppose that.

The Hon. SANDRA KANCK: We support it.

The Hon. NICK XENOPHON: There appears to be some confusion. Are we dealing with the amendment relating to the issue of the definition of a spouse or are we dealing with the wording—commissioner or HCS ombudsman? I gather it is the latter.

The CHAIRMAN: That is the amendment that we are dealing with, but the point of this procedure is to substitute 'commissioner' with the words of the original bill, 'HCS ombudsman'. We have had an indication of opposition by the Hon. Mr Redford on behalf of the opposition, an indication of support by the Democrats and an indication of support by the government. Members are being asked to knock over the Legislative Council's amendment and substitute HCS ombudsman with commissioner.

The Hon. A.J. REDFORD: As I understand it, and I am sure that someone will correct me if wrong, we are about to vote upon the issue of whether or not this office ought to be called an ombudsman or a commissioner. When we voted on this when it was before the Legislative Council on the last occasion, the opposition preferred the commissioner, as did the Hons Nick Xenophon, Andrew Evans and Ian Gilfillan. I urge all members to maintain the position they took when we debated this bill the other night.

The Hon. T.G. ROBERTS: I am reliably informed that the voting pattern was not as the honourable member said. The voting pattern was that the Hons Andrew Evans, Sandra Kanck and Kate Reynolds supported the government.

Motion negatived.

Amendments Nos 2, 4, 5 and 25:

The CHAIRMAN: The question is that amendments Nos 2, 4, 5 and 25 be insisted on.

Question carried.

The CHAIRMAN: The question is that amendments 9 and 13 be insisted on.

The Hon. SANDRA KANCK: I refer specifically to amendment No. 9. When we dealt with this in committee, I made the following comments in regard to the Liberal amendments, and I will read from *Hansard*. I said:

At this stage, I am still uncertain about this amendment. I do not feel that I have fully grasped the implications of it. I have a suspicion that there are more implications to the amendment than I am seeing. However, the government's arguments have not been persuasive against the amendment. Rather than belabour the point because I am uncertain, I feel it would be easier to support the amendment. When the bill is returned to the House of Assembly, the government will be able to amend it—

which it has duly done—

and, if need be, it will come back to us and we can further argue it.

We are now doing that. Since that time, I received a deputation from SACOSS expressing concerns about this amendment (the one we are referring to as amendment No. 9). I will read from a letter from the Council on the Ageing. It states:

Requiring that community organisations be prescribed as public authorities has two problems. First, although it might appear non-substantive, I think you will find that a significant number of community organisations will object to being so prescribed and being deemed public authorities. I have already had some sense of reaction to that from church-based community organisations, and even within COTA National Seniors.

Second, there are many hundreds, indeed thousands, of health and community service organisations. Prescribing them all will be a bureaucratic nightmare. It will also lead to consumer organisations like ourselves actively warning the public not to utilise the services of organisations that have not been prescribed as public authorities, which will mean that there will have to be some form of public identification as to whether or not an organisation has been so prescribed.

We are left wondering why the Opposition has pursued this amendment which has no rational public policy basis nor support from the health and community service sector.

I indicate, therefore, that, as far as amendment No. 9 is concerned, having previously supported it in the committee stage, the Democrats will now be supporting the government on this. The implications are now clear to me that, as I half suspected at the time, it has a lot more happening below the surface than appeared.

The CHAIRMAN: Your position now is that you will not insist.

The Hon. NICK XENOPHON: I also had a deputation from SACOSS and I had a very constructive discussion with them yesterday in relation to their concerns about amendments Nos 9 and 13 because, as I understand it, in relation to the amendments moved by the Hon. Mr Redford, amendment No. 9 was linked to amendment No. 13 in order to make amendment No. 13 work. There was some real merit in the arguments put by SACOSS in respect of the administrative burden that this could create. However, I still have significant reservations in respect of clause 4A(2) of the bill, and I made those reservations clear to SACOSS, notwithstanding that I understood their arguments in respect of the merits in relation to subclause (1) of the amendment moved by the Hon. Mr Redford. For those reasons, I will maintain my original position. I flagged quite openly that I believed that there is significant scope for this particular clause to be amended, but to amend it on the run would be dangerous in respect of subclause (2).

The CHAIRMAN: Is the Hon. Mr Evans going to express a point of view at this stage?

The Hon. A.L. EVANS: I am voting with the government on this.

The committee divided on the question:

AYES (7)

Gazzola, J.	Gilfillan, I.
Holloway, P.	Kanck, S. M.
Reynolds, K.	Roberts, T. G. (teller)
Zollo, C.	

NOES (10)

Cameron, T.G.	Dawkins, J. S. L.
Evans, A.L.	Lawson, R. D.
Lensink, J. M. A.	Redford, A. J. (teller)
Ridgway, D. W.	Stefani, J. F.
Stephens, T. J.	Xenophon, N.

PAIR(S)

Lucas, R. I.	Sneath, R. K.
Schaefer, C. V.	Gago, G. E.

Majority of 3 for the noes.

Question thus negatived.

The Hon. A.J. REDFORD: I move:

That progress be reported.

The committee divided on the motion:

AYES (11)

Cameron, T. G.	Dawkins, J. S. L.
Evans, A. L.	Lawson, R. D.
Lensink, J. M. A.	Redford, A. J. (teller)
Ridgway, D. W.	Schaefer, C. V.
Stefani, J. F.	Stephens, T. J.
Xenophon, N.	

NOES (8)

Gago, G. E.	Gazzola, J.
Gilfillan, I.	Holloway, P.
Kanck, S. M.	Reynolds, K. J.

NOES (cont.)

Roberts, T. G. (teller)	Zollo, C.

PAIR

Lucas, R. I.	Sneath, R. K.

Majority of 3 for the ayes.

Motion thus carried.

Progress reported; committee to sit again.

MEMBER'S REMARKS

The Hon. A.J. REDFORD: I seek leave to make a personal explanation.

Leave granted.

The Hon. A.J. REDFORD: It has been suggested that I have sought to delay the passage of this bill. Nothing could be further from the truth. The fact of the matter is that we were happy to have the previous bill put into a deadlock conference this afternoon, bearing in mind that the bill was debated late last night, I think at about midnight. As you are aware, Mr President, today is budget day and there are quite a number of things going on. I was prepared to assist and facilitate that, and I was told to my face by members of the government that this would be dealt with on the voices and that everything would go into a deadlock conference. Having been told that, divisions were called and debate occurred and I did not even have my notes with me. Then I was accused of delaying the vote. The government was prepared—

The PRESIDENT: Can the member take a seat for a moment. The Hon. Angus Redford should know that any discussions that take place off the record are not part of the proceedings. I can see that he is passionate about the position he is in, but what we—

The Hon. A.J. Redford interjecting:

The PRESIDENT: We are having a debate about a matter that is not the business of the council. I have given the member the opportunity to put something in *Hansard*. I think we should leave it there and move on with the business of the day. I understand your position and you have had an opportunity to make some explanation, but there is no business before the council. The explanation has to be about something you said on the record. What happens off the official record is not the subject of an explanation at this stage.

NATURAL RESOURCES MANAGEMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 1647.)

The Hon. CARMEL ZOLLO: When I was speaking to this legislation previously I was talking about consensus. In continuation of that, I noticed that an article in *The Stock Journal* of 8 April reported that the South Australian Farmers Federation supports the bill before us, whilst reserving the right to monitor how well the legislation works. A review process has, of course, been put in place as part of that bill. As well, the Local Government Association and members of the existing boards and the community have played significant roles in developing the legislation that has been put before us today. When the Hon. Caroline Schaefer spoke earlier she appeared to be concerned about the manner in which board members would be appointed. One of the newsletters that came across my desk today (and no doubt across everybody else's) is the NRM Directions SA newsletter, which states:

The NRM boards would also be skills based and appointed by the Governor on recommendation of the minister, following a selection process including involvement by the NRM Council itself.

Hopefully, that may allay some fears. The comments from the regions around the state were also positive, and it is of course—

The Hon. J.S.L. Dawkins interjecting:

The Hon. CARMEL ZOLLO: Well, they were. There has been massive consultation in this state. It is the people at the coalface, in particular our primary producers, who ultimately determine its success. As convener of the Premier's Food Council and Chair of the Issues Group for Food South Australia, as well as chairing the South Australian Wine Industry Issues Group and being a member of that council, I acknowledge the strong role the government has in ensuring environmental sustainability. The fortunes of those who grow and value add along the food chain to produce much of the state's economic wealth are ultimately at stake. Without sustainable water and land resources none of it would be possible.

Food and wine exports at the moment stand at around 32 per cent for food and 15 per cent for wine—47 per cent in total for food and beverage. To put it into context, the next highest industry is motor vehicles at around 17 per cent. Our food industry in the state employs around one in five people, so it is a major economic driver. The employment that derives from the industry does not stop at the farm gate, especially rural and regional South Australia. Jobs range from highly-skilled agronomists, computer operators, marketers and accountants to forklift operators, greenhouse staff and people working on processing and packing shed lines.

Horticultural-led community recoveries can only happen with natural resource management. Two examples would be the expansion of potato production in the Pinnaroo area and wine production in the Upper South-East, which have led to significant reductions in unemployment in those regional communities. Our aim in South Australia is to see an industry worth some $15 billion by 2010. At the same time, we have set a target of export growth of $25 billion by 2013, and food will be a very important component in seeing such growth. The value of our food industry at the moment is just under $9 billion. We are on track to achieve this target, despite some set back with SARS, the drought and the high value of the Australian dollar. None of this would be possible without environmental sustainability, and certainly future success needs to take into account environmental as well as economic factors. The consensus appears to be that this legislation is fair, certainly from the community's point of view, which is a good start in seeing greater environmental and resource sustainability, which brings with it economic and social benefits for all South Australians. I welcome this legislation and add my strong support.

The Hon. SANDRA KANCK secured the adjournment of the debate.

ADJOURNMENT

At 4.06 p.m. the council adjourned until Monday 31 May at 2.15 p.m.