HOUSE OF ASSEMBLY

Tuesday 14 November 2006

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

RAIL SERVICE, EXTENSION

A petition signed by 3 300 residents of South Australia, requesting the house to urge the government to extend the current passenger rail service from Gawler to the Barossa Valley, was presented by Mr Hamilton-Smith.

Petition received.

RESTAURANT, CITY OF BURNSIDE

A petition signed by 83 electors of South Australia, requesting the house to urge the City of Burnside to deny the application for the construction of a Hungry Jacks' restaurant at the corner of Markey Street and Glen Osmond Road, Eastwood, was presented by Mr Pisoni.

Petition received.

QUESTIONS

The SPEAKER: I direct that the written answers to the following questions on the *Notice Paper*, as detailed in the schedule that I now table, be distributed and printed in *Hansard*: Nos 3, 15, 17, 48, 50, 52, 53 and 103.

SCHOOLS, PRESCRIBED SUM

3. **Dr McFETRIDGE:**

1. How many South Australian schools currently charge a 'prescribed sum', what are the details of the charge and where are these schools located?

2. How many school card holders are there at each of these schools and how many non-school card holders pay this charge?

3. What is the current cost of collecting this charge and what is the total revenue raised from its collection?

The Hon. J.D. LOMAX-SMITH:

1. The Materials and Services Charge covers the cost of essential items and services used by individual students each year. The level of the charge is set by schools in consultation with the Governing Council and must reflect the actual cost of goods and services provided to the student, as per the legislation.

For the 2006 school year approval was given by DECS to 43 schools to charge a 'prescribed sum'. The school type and districts are as follows:

School Type	District	M & S Charge
Secondary School	Barossa	$290 Years 8 to 10
		$340 Years 11 to 12
Primary School	East	$260
Primary School	East	$220
Primary School	East	$284
Secondary School	East	$425
Secondary School	East	$580 Year 8
		$520 Years 9 to 12
Secondary School	East	$572
Secondary School	East	$540
Secondary School	Hills Murraylands	$420
Secondary School	Hills Murraylands	$310 Years 8 to 11
		$315 Year 12
Primary School	Inner South	$175
Primary School	Inner South	$215
Secondary School	Inner South	$540
Secondary School	Inner South	$330 Year 9
		$370 Year 10
		$375 Year 11
		$350 Year 12
Secondary School	Inner South	$365
Secondary School	Inner South	$563 Year 8
		$540 Year 9
		$585 Year 10
		$540 Years 11 to 12
Combined Reception to Year 12 School	Limestone Coast	$215 Primary
		$295 Secondary
Primary School	Limestone Coast	$210
Secondary School	Limestone Coast	$320
Secondary School	Limestone Coast	$300
Primary School	Metro West	$220
Secondary School	Metro West	$260
Secondary School	Metro West	$280 Years 8 to 10
Secondary School	Metro West	$300
Combined Reception to Year 12 School	North East	$245 Primary
		$310 Years 8 to 9
		$345 Years 10 to 12
Primary School	North East	$237
Primary School	North East	$215
Primary School	North East	$220
Primary School	North East	$190
Primary School	North East	$205
Secondary School	North East	$390
Secondary School	North East	$325
Primary School	Northern County	$185
Combined Reception to Year 12	South West	$317 Years 8 to 9
		$357 Years 10 to 12
Primary School	South West	$195
Primary School	South West	$265
Secondary School	South West	$550
Secondary School	South West	$450
Combined Reception to Year 12 School	Southern Sea and Vines	$268
Combined Reception to Year 12 School	Wallara Outer South	$305 Years 6 to 7
		$345 Years 8 to 9
		$410 Years 10 to 12
Primary School	Wallara Outer South	$200
Primary School	Wallara Outer South	$200 Rec. to Yr 5
		$210 Years 6 to 7
Secondary School	Wallara Outer South	$320 Years 8 to 9
		$350 Years 10 to 12

The 'prescribed sum' includes the Material and Services Charge and subject charges.

2. The number of School Card holders for the 2006 school year is not yet known. The scheme for the 2006 school year remains open until December 2006.

The following information is therefore based on 2005 School Card approvals. The number of non-School Card holders who pay this charge can only be determined by contacting each school individually. An indication of the number of students liable for the charge can however, be ascertained by deducting the number of School Card approvals from the 2005 Term 1 enrolment figures.

School Type	District	No. of School Card approvals	Total enrolement
Secondary School	Barossa	128	686
Primary School	East	64	637
Primary School	East	76	640
Primary School	East	159	690
Secondary School	East	268	1097
Secondary School	East	238	1239
Secondary School	East	153	1214
Secondary School	East	323	1443
Secondary School	Hills Murraylands	135	653
Secondary School	Hills Murraylands	159	595
Primary School	Inner South	121	197
Primary School	Inner South	119	394
Secondary School	Inner South	594	1072
Secondary School	Inner South	41	260
Secondary School	Inner South	151	589
Secondary School	Inner South	172	1227

School Type	District	No. of School Card approvals	Total enrolement
Combined Reception to Year 12 School	Limestone Coast	22	124
Primary School	Limestone Coast	75	367
Secondary School	Limestone Coast	174	693
Secondary School	Limestone Coast	76	402
Primary School	Metro West	114	588
Secondary School	Metro West	90	185
Secondary School	Metro West	161	343
Secondary School	Metro West	252	698
Combined Reception to Year 12 School	North East	344	1326
Primary School	North East	47	239
Primary School	North East	116	638
Primary School	North East	144	620
Primary School	North East	157	466
Primary School	North East	45	126
Secondary School	North East	161	691
Secondary School	North East	235	1044
Primary School	Northern County	66	209
Combined Reception to Year 12	South West	197	597
Primary School	South West	48	95
Primary School	South West	153	521
Secondary School	South West	356	1155
Secondary School	South West	198	1250
Combined Reception to Year 12	Southern Sea and Vines	323	1195
Combined Reception to Year 12 School	Wallara Outer South	224	1317
Primary School	Wallara Outer South	114	553
Primary School	Wallara Outer South	99	497
Secondary School	Wallara Outer South	246	976

3. The cost of collecting the charge is unavailable. To ascertain this information each school would need to be contacted individually and results would only be an estimate.

The total revenue invoiced by schools for Material and Services Charges for the 2005 school year was $45 071 014.21.

The figure for total Material and Services Charges invoiced includes both legally recoverable amounts (the standard sum and prescribed sum) and voluntary contributions. The figure does not deduct bad debt amounts.

SCHOOLS, BUDGET

15. **Dr McFETRIDGE:** For each year 2004-05 and 2005-06:

1. Were all required budget saving's targets and efficiency dividends met by all agencies and departments reporting to the minister and if not, which programs did not meet the required efficiency dividends?

2. What were the costs and the details of each consultancy undertaken?

3. What are the details of any program under-spend not approved by cabinet for carryover?

The Hon. J.D. LOMAX-SMITH:

1. The Department of Education and Children's Services met the requirements of the state budget for 2004-05 and for 2005-06.

2. Details of the Department of Education and Children's Services' consultancies for the 2004-05 financial year, as detailed in the financial statements, are:

Agency	Consultant	Description	Amount $
DECS	Lizard Drinking	Enquiry into Early Childhood Services	37 700

Details of consultancies for the 2005-06 financial year will be published in the financial statements.

3. The carryovers approved for the Department for the relevant years were incorporated into financial information released by the government. Any other information on financial results is incorporated into the Department's published financial statements.

SCHOOLS, WORKCOVER CLAIMS

17. **Dr McFETRIDGE:** What were the number of departmental WorkCover claims made in 2003-04, 2004-05 and 2005-06, and what is the anticipated total cost of administering these claims in 2005-06?

The Hon. J.D. LOMAX-SMITH: The number of new claims opened in 2003-04 was 1192.

The number of new claims opened in 2004-05 was 1135.

The number of new claims opened in 2005-06 was 1093.

The cost of administering WorkCover claims (salary and goods and services costs associated with the claims management and rehabilitation service) for the 2005-06 year was $2.17 million.

FLOOD MITIGATION PLANS

48. **Mr HAMILTON-SMITH:** What is the status of the Brown Hill and Keswick Creek Flood Mitigation Plan and when will it be delivered?

The Hon. P.F. CONLON: I provide the following information:

The Adelaide and Mt Lofty Ranges Natural Resource Management Board together with the Adelaide City Council, City of Burnside, City of Mitcham, City of Unley, City of West Torrens and the State Government have undertaken a flood study to examine a number of components to reduce flood risk within the Brown Hill and Keswick Creek catchments.

Stage 1 included a technical investigation and review process and Stage 2 involved a community information update with opportunity for community comment. These stages are complete and the consultant's report is now being circulated to interested parties.

Stage 3 involves more detailed assessment of the various components and the production of floodplain mapping, revised to reflect the benefits of implementing the priority works.

Arrangements for implementation of the priority works, as well as cost sharing arrangements between the Councils, will form the basis of a proposal to the Stormwater Management Committee for funding.

TRAIN DISRUPTIONS

50. **Mr HAMILTON-SMITH:** What action will be taken at short notice to advise train commuters of timetable disruptions?

The Hon. P.F. CONLON: I provide the following information:

Service disruptions can occur across the rail network for a wide variety of reasons including obstructions on the track, passenger behaviour/assaults, vandalism, signal faults and mechanical breakdown.

When a train is subject to a service disruption such as a mechanical problem, personnel are immediately dispatched to the vehicle to assess if a repair can be carried out or if the vehicle needs to be withdrawn from service. Depending on its location, the train may be blocking other services on the line.

When service disruptions occur, staff have a number of procedures to follow depending on the nature and duration of the disruption.

1. The Public Transport Division Info Team is advised of the disruption. This enables callers to the Adelaide Metro Info Line (8210 1000) to seek information on the disruption and service staff may be able to assist with alternative travel plans.

2. Passenger information screens at Adelaide station are updated.

3. The Computerised Train Control System provides updated voice messages via the announciators to stations.

4. Drivers are instructed to make announcements over the train PA systems.

5. Roving staff attend to outer stations (where possible).

6. Available staff are utilised for customer information in Adelaide Station with notices placed in visible locations (this may include bus alternative information).

TRAFFIC CAMERAS

52. **Mr HAMILTON-SMITH:** Have there been any additional government expense or cost associated with the failure by the camera manufacturer 'Robot' to fulfil its obligations?

The Hon. P.F. CONLON: I provide the following information:

Minor expenses incurred to date by the Government in relation to the supply and subsequent recall of the Robot digital red light and speed cameras have been the internal labour costs associated with the initial installation and monitoring of the camera systems at the respective sites. All subsequent costs have been borne by the contractor including freight, servicing, and replacement of relevant parts and testing, which are part of the all inclusive warranty.

On return of the cameras the contractor will arrange installation and monitoring of the cameras at their expense. Once the cameras are operating to specified requirements, the Department for

Transport, Energy and Infrastructure and South Australia Police will commence operation of the sites.

The 24 month warranty period will be revised to commence from the date the replacement cameras are fully operational.

TRAMLINE EXTENSION

53. **Mr HAMILTON-SMITH:** When will the construction on the proposed tramline extension commence, will there be any further community consultation and how will the government coordinate this work with the Adelaide City Council, the business community and residents?

The Hon. P.F. CONLON: I provide the following information:

Construction of the tramline extension from Victoria Square to the City West university campus is scheduled to commence in the second quarter of 2007 and be completed by the end of July 2007.

On 30 July 2006, I announced that the Government was supporting a range of new and integrated transport, community and cultural initiatives to assist with the regeneration of the northwestern quarter of the City. This included extending the tramline to City West, as well as proposing the relocation of the South Australian Film Corporation and the consolidation of transport staff into this area.

Following my announcement, a comprehensive program to inform the community about the tramline extension project was launched at Rundle Mall on Sunday 6 August 2006. The project team was on hand to answer people's questions; the public were able to view a lage display representing various aspects of the project; printed material was made available and, importantly, people had an opportunity to express their views.

I understand that some 2000 people attended the open day at Rundle Mall and I am delighted to say that there was overwhelming support for the project.

Throughout the following week, the project team was also at the Railway Station, Victoria Square and various locations throughout the City distributing brochures and answering people's questions. In addition, the public has had access to a project website and a dedicated 1300 phone number linked directly to the project team. There has also been a mail-out to stakeholders, including senior staff and elected members of the Adelaide City Council, business groups and people who had written to me with an interest in the project.

We asked the public to submit comments to the project team and this information is being considered before the plans are finalised. We have also undertaken to provide a summary of the feedback received on the website.

SCHOOLS, FACILITY SHARING ARRANGEMENTS

103. **Dr McFETRIDGE:** Have formal agreements for all facility sharing arrangements between school and non-Government organisations been established and if so, what are the details?

The Hon. J.D. LOMAX-SMITH: The Department of Education and Children's Services has in excess of 3000 arrangements in place, for which agreements have been finalised or are in the process of being finalised. These arrangements range from joint use agreements, where the department and other parties, mostly local government, have made a capital contribution for the construction of joint use facilities, to leases and licenses.

In addition, there are a number of local short term hire agreements between schools and community organisations, entered into and managed by the schools directly.

Given the large number of arrangements currently in place and the continuous process of negotiating new and renegotiating existing agreements, it is not practicable to provide detailed information about these agreements.

ROAD GUARDRAILS

In reply to **Mrs REDMOND** (2 May).

The Hon. P.F. CONLON: The Minister for Road Safety has provided the following information:

Requests for the installation of road barriers at new sites are received on a regular basis and are assessed by the Department for Transport, Energy and Infrastructure (DTEI) in accordance with its policy. Current DTEI policy is that guard fence is only provided where there is a need to protect motorists from roadside hazards, such as an open drain or steep embankment. If the purpose of the request is for the protection of property only, then the responsibility for the installation of any road barrier rests with the owner of the property.

In relation to the specific issue raised by the Honourable Member, I am advised DTEI has made inspections of the site in question. While the available information and on-site observations did not support the installation of guard rail, in view of the type and frequency of incidents (as reported by the residents), DTEI agreed to improve the delineation of the curve, particularly for westbound drivers at night or in poor weather conditions. This involved installing retro-reflective raised pavement markers around the curve and upgrading chevron alignment markers. DTEI also agreed to reinforce driver's awareness of the 60 km/h speed limit by duplicating the 60 signs prior to this curve. This work was completed in early 2005.

POLICE RESOURCES

In reply to **Hon. I.F. EVANS** (8 May).

The Hon. K.O. FOLEY: The Minister for Police has provided the following information:

South Australia Police (SAPOL) advises that they have been proactive in preventing and identifying the causative factors of splatter. Splatter is the 'spitting' of fragments of bullet lead or copper jacket from the barrel/cylinder gap of revolvers.

As a result action has been taken:

- SAPOL has purchased over 1450 new revolvers since June 2004 with another 200 revolvers due for delivery by the end of May 2006.
- SAPOL has employed an extra armourer and implemented a servicing schedule, which ensures firearms are now serviced within a 12-month period.
- Issues of backsplash/ricochet have been addressed by the construction of a new firearm range at Echunga for the use of the STAR Group. Other reengineering at the Academy outdoor range has significantly reduced the reporting of backsplash/ricochet.
- SAPOL is now using factory rounds for all training.

SAPOL currently considers the Smith & Wesson revolver is the most suitable for (officers; however, they are continually examining all types of firearms to identify if there is a more superior and safer handgun.

SAPOL will continue to monitor splatter incidents and continue to take steps to minimise any risk to members.

DRUG DRIVING

In reply to **Mrs REDMOND** (8 June).

The Hon. M.D. RANN: The Minister for Police has provided the following information:

The Commissioner of Police has advised that 13 sworn members where seconded to Traffic Support Branch to form a dedicated team to conduct roadside drug testing.

Train the trainer sessions on the equipment and process for drug testing occurred on Monday, 29 and Tuesday, 30 May 2006 with the equipment distributors from Melbourne. This was followed by a 3 day training session from 28 to 30 June 2006 which was conducted by SAPOL. The implementation process was completed on schedule with the testing of drivers beginning on 1 July 2006.

PAPERS TABLED

The following papers were laid on the table:

By the Speaker—

Pursuant to Section 131 of the Local Government Act 1999 the following 2005-06 annual reports of Local Councils—
Marion, City of
Mitcham, City of
Renmark Paringa Council
Victor Harbor, City of

By the Deputy Premier (Hon. K.O. Foley) for the Premier (Hon. M.D. Rann)—

Premier and Cabinet, Department of the—Report 2005-06
Promotion and Grievance Appeals Tribunal—Report 2005-06
Public Employment's, Commissioner for, State of the Service—Report 2005-06
Public Employment, Office of—Report 2005-06
State Emergency Management Committee—Report 2005-06
Regulations under the following Acts—

Mutual Recognition (South Australia)—Tobacco Products
Trans-Tasman Mutual Recognition (South Australia)—Tobacco Products

By the Deputy Premier (Hon. K.O. Foley) for the Minister for the Arts (Hon. M.D. Rann)—

Disability Information and Resource Centre Inc—Report 2005-06
Museum Board, South Australian—Report 2005-06

By the Deputy Premier (Hon. K.O. Foley)—

Coroners Act 2003, Section 25 (5)—Death in Custody Report
Police, South Australia—Report 2005-06

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

Development Act 1993, Administration of—Report 2005-06
Planning Strategy for South Australia—Report 2005-06
Rail Regulation—
South Australian—Report 2005-06
Tarcoola-Darwin—Report 2005-06
Transport, Energy and Infrastructure, Department for—Report 2005-06
TransAdelaide—Report 2005-06
Regulations under the following Acts—
Development—
Adelaide Park Lands
Bushfire Prone Areas
Show Grounds Zones
Passenger Transport—Enhanced Passenger Safety

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

Surveyors Australia, Institution of—South Australia Division—Report 2005-06

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

Regulations under the following Acts—
Electricity—Default Contracts
Gas—Default Contracts

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

Director of Public Prosecutions—Report 2005-06
Equal Opportunity Commission—Report 2005-06
Public Trustee—Report 2005-06
South Australian Classification Council—Report 2005-06
State Electoral Office—Report 2005-06
Summary Offences Act 1953—Return of Authorisations to Enter Premises under Section 83C(1)

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

Gene Technology Activities—Report 2005
Upper South East Dryland Salinity and Flood Management Act, Quarterly Report—1 July 2006 to 30 September 2006
Regulations under the following Acts—
Adelaide Park Lands—Management Strategy
Tobacco Products Regulations—
Licence Fee
Tobacco Product Packages

By the Minister for Health (Hon. J.D. Hill) for the Minister for Administrative Services and Government Enterprises (Hon. M.J. Wright)—

Freedom of Information Act 1991—Report 2005-06
Privacy Committee of South Australia—Report 2005-06
SA Lotteries—Report 2005-06
SA Water—Report 2005-06
State Procurement Board—Report 2005-06
State Records Act 1997, Administration of—Report 2005-06

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

Construction Industry Long Service Leave Board—
Actuarial Investigation of the State and Sufficiency of the Fund—Report 2005-06
Industrial Relations Commission, President of and Senior Judge of the Industrial Relations Court—Report 2005-06

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

Chicken Meat Industry Act—Report 2005-06
Dairy Authority of South Australia—Report 2005-06
Veterinary Surgeons Board of South Australia—Report 2005-06

By the Minister for Agriclture, Food and Fisheries (Hon. R.J. McEwen) for the Minister for the River Murray (Hon. K.A. Maywald)—

Department of Water, Land and Biodiversity Conservation—Report 2005-06

By the Minister for Agriclture, Food and Fisheries (Hon. R.J. McEwen) for the Minister for Science and Information Economy (Hon. K.A. Maywald)—

Playford Centre—Report 2005-06

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

Regulations under the following Acts—
Liquor Licensing—
Adelaide
Copper Coast
Meningie
Victor Harbor Plan.

HEALTH REFORM

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

Leave granted.

The Hon. J.D. HILL: Since 2002 the government has been reforming the health system, including improving its governance arrangements. In 2004 the government created a regional health structure and reduced the number of metropolitan boards from 12 to three. Last year we abolished the seven regional country boards, and we have now started to plan country health on a statewide basis. I can now outline for the house the next steps of our state's health reform process for governance. First, the government intends to eliminate six more boards. It is now the government's intention to dissolve the three metropolitan health service boards and the boards that govern Metropolitan Domiciliary Care, the Ambulance Service and the Health Commission. I want the department to have direct responsibility for managing the state's health services, not just responsibility for funding them.

I also want to maintain a strong, independent oversight of the way health services are managed. Therefore, I am also proposing the establishment of an independent Health Performance Council, which will monitor and review the health system, provide advice to the ministers and have a reporting role directly to parliament. Today I can announce that I intend to appoint a senior commonwealth government health official to that council. This bold move will commit our state to a strong federal/state government partnership in health. I also confirm that the governance of the Repatriation General Hospital will not change unless veterans support a change.

Secondly, members will be aware that the government has been consulting on the next steps for country health reform. Our proposal is to change the role of local, voluntary boards to relieve them of the burden of complex management issues. The boards will be called Health Advisory Councils and will

be involved in monitoring and planning their local health services, providing advice directly to the minister, leading fundraising and managing those funds, and participating in the selection of senior hospital staff. I now have a report on these consultations from the Country Health SA board, and that report will be on the Health Department's web site shortly. It recommends:

- strengthening the advisory, advocacy, monitoring and fundraising roles of the boards;
- keeping the Country Health SA board;
- giving Country Health SA overall authority over employment, setting clinical standards and managing finances; and
- giving the two Aboriginal health agencies the choice of becoming Community Health Councils.

I thank the Country Health SA board for its report and, in particular, can advise the house that local boards will retain their identity and any property acquired through fundraising, gifts or bequests. The Country Health SA board will be retained with all the powers of a Health Advisory Council, as well as roles in planning and resource allocation. These governance changes in the city and the country will require new legislation, so it is my intention to develop a new health care bill encompassing these changes. Extensive consultation on this bill will occur. I can also announce today the third important change in health governance.

A series of statewide clinical networks is being established to give clinicians direct input into health service planning and delivery. Each network will involve doctors (both specialists and GPs), nurses, allied health workers and community representatives, and each will be led by a senior clinician. Clinical networks will help decide how to implement best practice in their area of specialty. The first proposed networks are in the specialties of cancer, renal, mental health, obstetrics and gynaecology, paediatrics, cardiology, rehabilitation and orthopaedics. These networks will encourage clinicians to think beyond their own hospital and work with their colleagues across the health sector. These new governance changes will streamline decision making and ensure that we have an integrated health system for the future, and they will give a strong voice to community members and clinicians.

DROUGHT

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

Leave granted.

The Hon. M.D. RANN: The greatest challenge facing the future economic, environmental and social sustainability of our nation is the management and maintenance of fresh water supplies. At no time in our nation's history has that been more apparent than with this drought, which some states have been enduring now for more than two years and which shows no sign of easing, despite the rain burst that we received here on Saturday night. I am told that the forecast outlook remains bleak.

Under the Murray-Darling Basin Agreement, signed in 1992, in years of normal river flows South Australia is guaranteed 1 850 gigalitres a year from the upstream states. I am advised that, historically, actual river flows have been significantly higher, with a median annual flow of 4 800 gigalitres. Yesterday, the Murray-Darling Basin Commission again revised downwards its predicted annual flow into South Australia to 1 440 gigalitres. This continues the rapid rate of deterioration in the forecast flows provided by the commission.

When it became apparent that the state was facing a potential risk because of the lack of flow into South Australia from upstream states—as I was advised at a meeting convened at Parliament House on 26 October—the government acted immediately to establish a water security advisory group to give us the best advice about managing our water supplies. It is worth reminding ourselves that, in the typical average year, our state takes out nearly 8 per cent of the water extracted from the Murray-Darling Basin system, whereas the upstream states take out a massive 92 per cent. I am advised that in 2004-05, for example, New South Wales took out nearly 46.5 per cent of the water extracted, Victoria took out 39.4 per cent and Queensland took out 5.8 per cent, yet 95 per cent of our state (domestically, industrially, commercially and agriculturally) survives on the water that we draw from the River Murray.

Last week, the Prime Minister, John Howard, called a meeting with the Murray-Darling Basin state premiers to discuss the management of the water in our river system to ensure that all states take a cooperative approach to getting the water they need in a sustainable way during this intense period of drought. This was a necessary measure for the immediate term.

It was agreed at that meeting that this is a national issue, and that a group of state officials will meet with the Murray-Darling Basin Commission to examine contingency planning to secure urban and town supplies during 2007-08. That group will report back to the government by 15 December this year. We will then be in a better position as a nation to understand how best to implement emergency plans should they be needed. The meeting also provided an opportunity to send a message to those who have not yet come to terms with what we have been grappling with for some years now: that is, we need a long-term guaranteed supply of fresh water.

The importance of this message must be heard, and every South Australian must understand it. A lack of fresh water supplies is our clear and present danger. Right now our nation is suffering through the worst drought and the lowest flow into the River Murray on record. In fact, the General Manager of River Murray Water within the Murray-Darling Basin Commission told the meeting of premiers and the Prime Minister in Canberra last week that, in all probability, the drought is not a one in 100 year event but a one in 1 000 year event. We are feeling it because we are the state at the end of the whole Murray-Darling Basin system, and the flow that we get as the last state in the system is low and slow compared to the volumes in upstream states.

What are we doing about the immediate threat of low fresh water supplies in South Australia? Like any responsible government, we are planning for worst case scenarios because failing to do so would be, in my opinion, reckless. If South Australia suffers through another drought next year (that is, if we have another drought following this year's drought) I am informed that, without implementing extreme contingency plans, there is a real risk the river will cease to flow and that water supplies for our irrigation and metropolitan Adelaide needs would be at serious risk.

In the event that South Australia experiences a one in four-year drought next year the state will still face serious problems. The government responded to recent advice of serious deterioration in the Murray-Darling Basin water outlook by establishing an expert advisory group to develop options for consideration by cabinet to deal with the situation.

The advisory group is chaired by the Deputy Premier and Treasurer and includes, of course, the Minister for the River Murray and some of Australia's foremost experts on water management.

The expert advisory group has identified the construction of a temporary weir across the river at Wellington to isolate the lower lakes from the river channel as a contingency measure that could be implemented under a worst case scenario by December 2007. In the coming weeks and months, detailed work needs to be undertaken and consultation with affected communities begun to plan the construction of a weir and to identify and mitigate any social, environmental and economic impacts.

As a first step a consultation program is being prepared. I am told that, if required, a temporary weir will restrict the water flowing into South Australia to the river between Wellington and Blanchetown. That would mean that we would capture water normally lost through evaporation from the shallow lower lakes—usually around 750 gigalitres a year—to be used for fresh water supplies. I am informed that the estimated cost of a simple sheet-piled weir is $20 million and would take about a year to construct. Planning for the weir has already begun, because if we get to a situation where it must be built I want all approvals and most pre-preparation work done and ready to go.

The Prime Minister and his Parliamentary Secretary, Malcolm Turnbull, have both strongly endorsed this approach. I was very pleased that, last Thursday on an Adelaide radio station (following our meeting last week in Canberra), the Prime Minister said:

> I understand and support. . . the construction of a weir at Wellington and this is a project that the South Australian Premier said that he was intent on doing. . . my understanding suggests that that would be a very sensible thing to do. . .

A weir is not something this government wants to build, and we hope we will never have to build it, but if it is required, the planning and preparation will have been completed in order to guarantee water supply to Adelaide, the Riverland and the vast majority of South Australians who depend on the River Murray for their water. If there is an emergency and a temporary weir is built, I am aware that it will leave some communities without their usual supply of water. It must be emphasised, however, that if we were ever to experience the need for a weir it would mean that the flow of the River Murray would effectively become a dribble, which would impact on those communities in any event.

The weir would also isolate grape growers in Langhorne Creek and 28 dairy farms in the Lower Lakes from access to fresh water from the lakes. I am told that 70 gigalitres of water is extracted from the lakes for crop and dairy pasture irrigation, while the townships of Clayton and Point McLeay rely on lakes water. I can announce to the house today that it is now proposed to build two small desalination plants at a cost of in excess of $2 million each to supply water to those townships. Alternative arrangements for irrigators (if needed) are now under investigation and I hope to be in a position to say more on this at a later date.

There have been many commentators of late saying that the weir (if built) would stop the flow of river water to the Coorong. I must again emphasise that a temporary weir would be built only in circumstances of such low flow that there would not be enough water to reach the Coorong. So some of the commentary has been simply amazing. In other words, it would not be the weir stopping water flow to the Coorong, it would be the drought.

The government is nonetheless very concerned about the fate of the Ramsar-listed Coorong and Lower Lakes, which provides a valuable habitat for more than 65 species of water birds, and more than half the water birds found in South Australia. I am told it is ranked within the top six water bird sites in Australia.

To reduce the adverse impact of drought and low flows from the River Murray, the government has applied for funding under the National Water Initiative for a proposed project to connect the south-east drainage system to the southern end of the Coorong, to supply it with fresh water at an estimated cost of around $14 million. The Prime Minister's support in such projects is crucially important, because it symbolises the need for bipartisanship in matters of drought and the need for a national approach to managing our scarce water supplies.

On that note, I understand that the Minister for the River Murray will be giving a comprehensive briefing to the state opposition on Thursday this week to keep them apprised of all we are doing to help prepare for our drought conditions. I think the Leader of the Opposition would agree that a drought respects partisan politics as much as it does state borders. It is a problem to be worked on together in a bipartisan way in the best interests of the state and the nation. I therefore welcome the Prime Minister's support for this approach.

Our state's irrigators are the most efficient users of river water. They produce—with their 7 per cent of the water extracted for irrigation purposes—20 per cent of the economic wealth generated by irrigators along the entire river. Because of extreme conditions, River Murray irrigators in South Australia are facing restrictions of 60 per cent of their allocations as a result of this drought. Therefore, I have this announcement to make to the parliament: the state government recognises that many of these irrigators are doing it tough this year, and because of this I can announce today that the state government has decided to provide a once-off ex gratia payment to provide relief equivalent to 40 per cent of their natural resources management levy.

Sustaining fresh water supplies for our state can no longer focus solely around the River Murray. In short, our heavy reliance on the River Murray is untenable. Waterproofing our state against the ravages of drought, floods, the vagaries of the weather—of the long-term effects of climate change—is essential to our future. I am pleased that there is now a recognition of climate change nationally and, indeed, I acknowledge that what we are seeing with the River Murray and with the drought is a glimpse of the future under climate change.

We have embarked on a 20-year plan to waterproof our state for the long term; to find alternative supplies of water and to harvest and recycle the natural water supplies that fall from our skies when it rains. In this respect, we lead Australia. That is why this state is supporting and is prepared to co-fund with the commonwealth and BHP Billiton the construction of the proposed desalination plant in the Upper Spencer Gulf which, if it goes ahead, will become the largest of its kind in the southern hemisphere. This plant to cost, I am told, more than $500 million will not only supply water to the massive planned expansion of the Olympic Dam mine but will supply fresh water to the Upper Spencer Gulf, Eyre Peninsula and the West Coast. It will heavily reduce our reliance on River Murray water for those communities, and I am told it will result in 30 million litres a day being returned to the River Murray.

I am also told that it will save on power, because to pump water supplies from the Murray to the Upper Spencer Gulf uses more power than it will to drive the desalination plant. I can inform the house that yesterday I, the Treasurer and also the Minister for the River Murray met with Malcolm Turnbull. I discussed with Mr Turnbull our funding bid from the commonwealth for the desalination plant, and I have also discussed it with the Prime Minister.

The state government's Waterproofing Adelaide strategy contains 63 projects over 20 years. Seven are completed and there are many under way, including stormwater reuse schemes across the Adelaide metropolitan area.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE

The Hon. R.B. SUCH (Fisher): In the absence of the member for Giles, I bring up the 59th report of the committee, being the Annual Report 2005-06.

Report received and ordered to be published.

VISITORS TO PARLIAMENT

I draw to honourable members' attention the presence in the gallery today of members of the Kilkerrin Women's Group, who are guests of the member for Goyder, and students from Clovelly Park Primary School, who are guests of the member for Elder.

QUESTION TIME

MURRAY RIVER

The Hon. I.F. EVANS (Leader of the Opposition): Can the Premier explain why 760 gigalitres of water was released from the River Murray storages since 5 December last year to flow over the Murray barrages into the sea in light of the ongoing drought across the Murray Darling Basin and no sign of new inflows? Since 5 December last year, some 760 gigalitres of water has flowed over the barrages to the sea. South Australia's total annual consumption averages less than that, at about 650 gigalitres.

Members interjecting:

The SPEAKER: Order! The Treasurer has the call.

An honourable member interjecting:

The Hon. K.O. FOLEY (Treasurer): I know you want to be the new Leader of the Opposition.

Members interjecting:

The SPEAKER: Order! The Treasurer has the call.

The Hon. K.O. FOLEY: You reckon they would be a little quiet about that leadership stuff, wouldn't you?

Ms Chapman interjecting:

The Hon. K.O. FOLEY: Poor old Iain; hang in there, mate, we're with you. The Premier has given a detailed statement to the house. The specifics of the question, of course, I will refer to my colleague the Minister for the River Murray, who is presently in Murray Bridge dealing with a group and discussing issues relating to the Murray. To put this matter into perspective, the concern that we have—and the concern that the Premier, the Prime Minister and other premiers have articulated—is how it relates to next year.

If we do not have significant rain in the basin over the course of the next six to 12 months, what occurs next year is of great concern to all of us. That is clearly something over which no state or national government can have any control. We have sufficient water for this year. The Murray-Darling Basin Commission has allocations, and allocations are made for each state.

The Hon. M.D. Rann: By the commission.

The Hon. K.O. FOLEY: By the commission.

Members interjecting:

The SPEAKER: Order! The Deputy Leader of the Opposition cannot run an interrogation while the minister is answering the question. She has to be quiet and listen to the minister's answer. If she wants to get up and ask another question, she is more than welcome but she needs to wait for the minister to complete his answer. The Treasurer has the call.

The Hon. K.O. FOLEY: Thank you Mr Speaker. The Murray-Darling Basin Commission sets allocations for every jurisdiction, which we must abide by.

An honourable member interjecting:

The Hon. K.O. FOLEY: As I have said, we will get a specific response, because I am not the minister with intimate knowledge of the details on which the leader has based his question.

Members interjecting:

The Hon. K.O. FOLEY: As my colleague says, last year's water cannot help next year's water. But can we just put this into perspective?

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: This is a very important point of which I think we should all take note. Last month the Murray-Darling Basin recorded its lowest October inflows on record at just 74 gigalitres. This compares to the average October inflow of 1100 gigalitres. The previous low was 139 gigalitres in 1914. That is the magnitude of what we are dealing with. It has come upon us suddenly. It has come upon us—

Members interjecting:

The Hon. K.O. FOLEY: The interesting thing is that I spent time yesterday with the Prime Minister's parliamentary secretary, Malcolm Turnbull, and a fortnight ago the Premier spent time with the Prime Minister of this country. Do you know what you can do with Malcolm Turnbull, and clearly what the Premier did with the Prime Minister? You can have a constructive discussion about the water crisis confronting the nation. Do you know what Malcolm Turnbull does not do? He does not play petty politics with this matter; he does not play nonsense politics with it. He understands the issue, and he understands that this is an issue beyond the ability of state governments and beyond the ability of any national government either to have foreseen or to have the ability to respond rapidly and satisfy all parties.

Officers, the Premier and the Minister for the River Murray and I sat down for many hours and had an intelligent discussion about the options available to us. There was no blame game; there was no petty politics; there were no nonsense questions about water flowing over barrages. Everyone understands what has occurred. There would be a time, I would have thought, for a leader of the opposition in this place and the would-be leaders of the opposition—all three of them in that first row—to show some bipartisanship and cooperation and objectively analyse this matter, and work with the Prime Minister of this nation, the Premier of

this state and Malcolm Turnbull, to find solution and not play silly, base politics.

LOCAL GOVERNMENT ACCOUNTABILITY

Ms SIMMONS (Morialta): My question is to the Minister for State/Local Government Relations. Can the minister advise the House of what action is under way to ensure greater accountability and transparency in local government?

The Hon. J.M. RANKINE (Minister for State/Local Government Relations): I thank the member for her question. She has had a very strong interest in local government since being elected to this place, and I have had a number of deputations she has arranged to come and see me about local government issues. I take this opportunity to congratulate those who were elected in the very recent local government elections. I am informed that eight new mayors were elected in contested elections against sitting mayors; a further 11 new mayors were elected where the current mayor retired; 28 mayors were re-elected or not challenged; and the 19 remaining councils will appoint their chairperson from amongst their councillors after the elections. Although we are waiting for confirmation from the Electoral Commission, I am informed that the indicative voting turnout figures are probably slightly down on previous years. However, a record number of candidates (1 095) nominated for council, with a record number of women (338).

Following these elections, the government intends to conduct a comprehensive review into the local government election process. This review will examine the roles of the Office for State/Local Government Relations, the Local Government Association and the Electoral Commission in the provision of information; voter education and election promotion; the effectiveness of the postal voting system and any modifications that may need to occur; measures that may be required to increase the number of candidates from under-represented groups, such as women, young people, Aboriginal people and non-professional workers; and other issues identified during the process of this campaign, including local government caretaker conventions and provisional voting for 17 year olds, as is the case for state and federal elections. Our councils deserve to have the confidence of the people they represent, and it is therefore important that we have the best election processes possible.

I also noted the Auditor-General's statement regarding the accountability and transparency of local government sector in his annual report. The Auditor-General has acknowledged the significant changes to financial management, auditing and reporting arrangements, and the important initiatives that have been and are being developed within this sector. However, he also raised concerns in relation to his opinion that there needs to be a positive, comprehensive, independent audit assurance concerning not only matters relating to the financial statements but also the adequacy of the controls and general governance issues associated with local government administrative arrangements. I have written to the Auditor-General seeking an appointment to discuss the concerns he has raised, and I will meet with him late next week. I have also written to the LGA seeking its views on the Auditor-General's comments.

I also take this opportunity to advise the house that the LGA has been working diligently in the area of improving the financial governance and sustainability of local councils. I understand that the LGA has been working with Standards Australia to develop standards dealing with governance, including financial governance in local government here in South Australia. South Australia's LGA is now leading a program nationally with Standards Australia to encourage all state and territory associations to join in with these initiatives. Changes to the Local Government Act and the Local Government Financial Management Relations Act will come into effect early next year, and the government and the LGA are committed to ensuring that councils are aware of their additional responsibilities in ensuring greater accountability.

WATER ALLOCATIONS

The Hon. I.F. EVANS (Leader of the Opposition): My question is again to the Premier. If the 760 gigalitres were not let out to sea since 5 December, would the government have had to reduce the irrigators' allocations or, indeed, introduce water restrictions to Adelaide?

The Hon. K.O. FOLEY (Deputy Premier): The former minister for the environment (and I might let him take some of these questions because of his experience in the area) has pointed out to me that SA Water is entitled to 650 gigalitres on a rolling average over five years. They are not allowed to stop the flow of the river above that amount. That is environmental flow. That is what you signed up to when you were minister for the environment. That is what your government was signed up to. You cannot be in government and make decisions, sign up to the Murray-Darling Basin Commission, have obligations and then somehow break them. It is about environmental flows and allowing the Murray to flow.

Ms Chapman interjecting:

The Hon. K.O. FOLEY: What inane interjections from members opposite! What silly questions! We have our allocations and we cannot break our allocations. Are members opposite honestly suggesting that we should break our allocations? Is that what they are saying—that we should say, 'Bugger New South Wales and Victoria, because we are going to take out more water than we are allowed to.' What does the opposition think they would do to us? They are upstream from us. They would build a dam at Mildura and keep all the water for themselves. What stupid questions, Mr Speaker! What silly interjections from the deputy leader! We are a responsible government, managing the Murray-Darling Basin Commission obligations, which the Liberal government was a signatory to and which the cabinet of the Leader of the Opposition would have been signatory to when he was minister. It is a nonsense question, and what the opposition has suggested today is absolute stupidity.

SPECIAL JUSTICES

Mr RAU (Enfield): Can the Attorney-General inform the house about the appointment of special justices under the provisions of the recently proclaimed Justices of the Peace Act 2005 and associated regulations?

The Hon. M.J. ATKINSON (Attorney-General): I can, sir. The appointment of special justices under the Justices of the Peace Act is an initiative of which the Rann government is most proud. Members will recall that, before 1997, JPs regularly sat on the bench in the metropolitan area and, in doing so, made a contribution to our society which has been valued by me, and by many others. In 1997 there were 38 such justices and they sat nearly 1 000 times a year.

Sadly, in that year, 1997, the Liberal Party saw fit to remove them, and we have been the poorer for the loss. It did

not seem to faze the members opposite, however. As I recollect, they have at various times referred to the wonderful service these volunteers rendered as, to quote them, 'cheap labour'. The name of the member who said that escapes me at the moment, but perhaps members on the government side will help me. This cheap labour was provided by 'volunteer enthusiasts'. That is how the shadow attorney-general described justices of the peace (I refer to the Hon. Robert Lawson). Even the member for Heysen doubted if special justices were 'best versed in appropriate application of the law'. Indeed, members may recall the member for Heysen indignantly rising in this chamber to claim she had been misquoted by me about justices of the peace. All went very silent when she referred to *Hansard* and found out what she said. Loose lips sink ships!

I am pleased to report that the Rann government has taken steps to remedy this waste of voluntary service rendered by good and qualified volunteers, all of whom are looking to serve our society to the best of their capability. The Justices of the Peace Act 2005 provided for the appointment of special justices, and I am pleased to say that, to date, Her Excellency has approved the appointment of 22 of our fellow South Australians as special justices. They would not have been appointed unless the government changed in 2002. We have seen the effort come to fruition, because some few hours ago Special Justice John Ames became the first special justice appointed under this new act to sit.

Mrs Redmond interjecting:

The Hon. M.J. ATKINSON: No, it is not because his name starts with A: although I believe that alphabetical order for the ballot paper was a very good system. He sat at Elizabeth Magistrates Court to hear—

An honourable member interjecting:

The Hon. M.J. ATKINSON: No, the Liberal ticket did particularly poorly in Charles Sturt. Joe Rossi did not quite make it.

The Hon. R.G. Kerin interjecting:

The Hon. M.J. ATKINSON: No, mate, for the second election in a row I allowed my picture to be published in Harold Anderson's campaign material, endorsing a great mayor. Special Justice John Ames sat at Elizabeth Magistrates Court to hear some 30 traffic matters that would normally have required the services of a magistrate. Mr Ames and his colleagues will now sit regularly at Elizabeth court, and they will soon hear criminal matters. I further understand that special magistrates will soon commence sitting in the Port Adelaide Magistrates Court, followed by the Adelaide Magistrates Court and then the Christies Beach court. These special justices will continue to exercise all the powers and functions of a JP and, in addition, some judicial and quasi-judicial functions.

One special justice will be able to constitute, as did Mr Ames, a newly-created Petty Sessions Division of the Magistrates Court. In that division, special justices will deal with offences against the Road Traffic Act 1961 that do not carry a penalty of imprisonment. They will also reconsider matters remitted to the Petty Sessions division under section 70I of the Criminal Law (Sentencing) Act 1988. Basically, these are reviews of decisions of the registrar of the court about arrangements for paying fines or substitution of different penalties, including community service and cancellation of driver's licence in lieu of paying a fine. In addition, one special justice will be able to constitute any other division of the Magistrates Court where there is no magistrate available. A special justice will not have authority to sentence anyone to imprisonment.

Similarly, a special justice will be able to constitute a youth court when there is no magistrate available but will not be able to impose a penalty of detention or hear matters for care and protection of children under the Children's Protection Act. The use of special justices in such a role is a time-honoured custom. It never ceased happening in the United Kingdom. They provide a valuable contribution while, at the same time, allowing judicial labour to be redirected to more serious matters. This is a good example of South Australians helping South Australians. May I repeat in conclusion: if it were left to the members opposite, it never would have happened.

IRRIGATORS, WATER ALLOCATIONS

The Hon. I.F. EVANS (Leader of the Opposition): My question again is to the Premier. What advice has the government received regarding the worst case scenario for water allocations for irrigators in 2007 and 2008? Is that advice a zero allocation, and what is the level of risk that this may happen? The government has announced a proposal to build a weir at Wellington, based on its latest advice, which should have covered water allocations for irrigators in those years.

The Hon. M.D. RANN (Premier): It obviously depends on the flow into the River Murray. What an incredibly stupid thing! I have just given the leader a copy of my ministerial statement, which points out exactly the situation that we face. He has a choice to make: does he side with the Prime Minister, Malcolm Turnbull and this government in tackling a national crisis or does he actually play games with it? The fact is that the answer to your—

The Hon. I.F. Evans interjecting:

The Hon. M.D. RANN: Do you want me to answer? Your two offsiders are not even laughing. Look at them—lying in wait, ready to pounce. He who dares wins! As I pointed out in the ministerial statement, it depends on whether or not we experience a successive drought next year. That was made patently clear to you. Thank goodness the Minister for the River Murray has agreed to give the leader a briefing, because today, unlike his federal colleagues, he clearly has absolutely no awareness of what is going on.

The Hon. I.F. EVANS: Sir, I have a supplementary question. Given the Premier's answer that it depends on whether we experience another drought next year, on the basis that there is another drought next year, what is the advice to him on the likely allocations to irrigators, and is that a zero allocation?

The Hon. M.D. RANN: It depends on the extent of the drought. That is the whole point. When you are a minister for the environment, you obviously have some kind of a crystal ball or a mirror on the wall which gives you this advance material! This is bizarre. No wonder eight out of 10 South Australians do not know who the leader is, and the ones who do know him on his own side of politics do not support him.

Members interjecting:

The SPEAKER: Order!

DIABETES

Ms THOMPSON (Reynell): My question is to the Minister for Health. What is the prevalence of diabetes in

South Australia, and how would GP Plus health care centres help people to manage the disease?

The Hon. J.D. HILL (Minister for Health): I thank the member for her question. I also thank her for being in attendance at the official opening of the GP Plus Healthcare Centre at Aldinga a week or so ago.

Mr Bignell: It is a great centre.

The Hon. J.D. HILL: Indeed. The member for Mawson was there as well. Today is World Diabetes Day, and I am pleased to inform members of the concerning incidence of diabetes in our community. Sir, this is a serious matter. About 75 600 South Australian adults report having been told by a doctor that they do, in fact, have diabetes. In Australia, approximately 100 000 adults develop diabetes each year. Today I can inform the house of new statistics that estimate that 13 500 South Australians are likely to be living with diabetes and do not know it. This alarming data comes from the North-West Adelaide Health Study, which is a long-term scrutiny of the health of more than 4 000 South Australians undertaken by the Department of Health. People who do not know that they have the condition could be seriously risking their health. I urge anyone who has the potential risk factors for diabetes (and that would include a number of members of this place) and who has not been screened—

An honourable member: Who?

The Hon. J.D. HILL: —I will name them in a second—for the condition to contact their doctor or health practitioner and find out their status. The risk factors are as follows: obesity (I will let those people name themselves); those with a family history of diabetes; and people aged over 55 (that includes me). Aboriginal and Torres Strait Islander people are particularly at risk, and are encouraged see health professionals. Earlier this year, I was concerned to learn that almost three-quarters of South Australians who are obese and aged over 55 do not consider themselves to be at high risk of developing diabetes. That is 76 800 people.

This is a preventable condition, but prevention requires people to take steps to improve their own health. That means maintaining a healthy weight, taking part in regular exercise and maintaining regular contacts with GPs or other health services to help manage the condition or maintain a healthy lifestyle to avoid developing diabetes. The state government's GP Plus health care centres, which will combine a range of community health GPs, practice nurses and allied health services, will play an important part in managing a whole range of chronic diseases, including, and especially, diabetes. The first of these 10 GP Plus health care centres, as I said, opened at Aldinga just a week or so ago. It is a step in changing the focus of health in South Australia from acute services delivered to those who have already developed chronic diseases or conditions to primary health care aimed at prevention, early detection and early intervention.

WELLINGTON WEIR

The Hon. I.F. EVANS (Leader of the Opposition): My question is to the Premier. Will the weir at Wellington be built only if there is a zero allocation to irrigators?

The Hon. M.D. RANN (Premier): Now, let me just explain this really, really carefully. The leader asked whether there would be a zero allocation. If there was zero water then ipso facto a priori—and I think we would be ad idem on this—there would be a zero allocation, because you would have nothing to allocate. What has happened is that the Prime Minister asked the Murray-Darling Basin Commission—and, from memory, in association with the CSIRO and state and federal officials—to come back on 15 December basically to make some judgments about the next steps in terms of contingency planning if we get a second drought next winter.

Obviously, we are doing the contingency planning now in advance of 15 December, which the Prime Minister and Malcolm Turnbull—but, apparently, not the leader—think is a very good idea.

EDUCATION, COMMUNITY FORUMS

Mr PICCOLO (Light): My question is directed to the Minister for Education and Children's Services. What kind of feedback was received at six community forums held recently to discuss plans for six new schools in metropolitan Adelaide?

The Hon. J.D. LOMAX-SMITH (Minister for Education and Children's Services): I thank the member for Light for his question, because he would realise that this bold new plan affects his constituents. Indeed, the member for Light has attended some of our forums where we have discussed this matter. Members will be aware that the state budget announced possibly the biggest building program in living memory with a $216 million investment for our education work strategy, which will deliver six completely new schools in metropolitan Adelaide, as well as giving $82 million in capital to improve schools and preschools throughout the state.

During the last few weeks we have held six public forums, which have been widely advertised in the communities earmarked for the new schools. Those communities are Smithfield Plains and Playford North (the forums for which were attended by the member for Light, as well as the member for Napier), Woodville Gardens and Mansfield Park, as well as the Enfield/Gepps Cross and Northfield region, the forums for which were attended by the member for Torrens.

About 420 people attended the forums, which marked the start of a major consultation program with the 13 school and four preschool communities currently providing education services in those areas. The opposition spokesperson for education, I might add, did not attend these meetings. I am pleased to report to members that the feedback received was extremely positive and encouraging. Some of the most common questions posed related to the facilities and curriculum that would be provided within the new schools. The member for Torrens has told me on many occasions that the Ross Smith school has particularly innovative programs. Indeed, the member for Enfield has told me of the special programs at Enfield High.

These programs are particularly good at engaging young people—who would otherwise drop out of the school system—and encouraging them into work and into training. The results of our survey forms that were distributed during the forums show that the vast majority of respondents found the meetings worth while but, in particular, they enjoyed having the opportunity to discuss their views. The calibre of questions asked at the meetings reflected a deep interest from parents and other community members in the role that local communities could have in shaping their children's future.

Some parents said that the new schools were particularly attractive because of the better opportunities they would provide their children, but most especially they found attractive the idea of birth to year 12 facilities so that there was the one-stop shop. In addition to the forums, I personally committed to meeting the 17 school and preschool governing

bodies, and I am well advanced in this process already. To date those meetings have been attended by both the member for Enfield in his constituency and the member for Torrens in her constituency, as well as the member for Playford.

The Education Works Team is also meeting with school and preschool communities throughout this month to have ongoing consultation about the shape, the location and the format, as well as the courses and programs that they particularly value within their schools. The schools are beginning their process of communication locally; they are discussing the matters with teachers, parents and students and will move towards voting in the near future on whether or not they will support a new school in their community. However, the initial feedback has been extremely positive and the communities are clearly very supportive of our new school building program and the opportunities for better education.

WELLINGTON WEIR

The Hon. I.F. EVANS (Leader of the Opposition): My question is again directed to the Premier. If the weir at Wellington is constructed and there is an allocation to irrigators, how will the water be distributed to irrigators beyond the weir, or is it the intention to compensate? A consultant's report to the government indicates that if a weir is constructed at Wellington the cost of the infrastructure to get the water to the areas that need it is up to $100 million.

The Hon. M.D. RANN (Premier): The advice that I have received, as mentioned in my statement, is that if a temporary weir of the kind described in the statement was to be constructed, the estimated cost would be around $20 million. Obviously, in terms of the allocation to irrigators downstream, these are the matters that I referred to in my statement about the ongoing consultations. That is why we do not particularly want to build a weir and hope it would never have to be used if it was built, because obviously there would be downstream issues, but we have to act in the interests of South Australians.

Mrs Redmond interjecting:

The Hon. M.D. RANN: What was that? I will give you a copy. Of course there will be downstream issues if you build a weir. Read what I said in my statement. We hear questions like: if there is no water will there be water available for irrigation? This is childlike. You go to a meeting with Malcolm Turnbull and he is on top of the issues. You go to a meeting with the Prime Minister and he is on top of the issues. But apparently members opposite spend too much of their time plotting and scheming against each other.

The Hon. I.F. EVANS: My question is to the Premier. How much of the $20 million cost is specifically allocated to deal with downstream issues, or is the $20 million purely for the construction of the weir?

The Hon. M.D. RANN: My advice is that the $20 million would be the cost of constructing a temporary weir at Wellington, should that be required.

IGA WARTA

Ms SIMMONS (Morialta): My question is to the Minister for Aboriginal Affairs and Reconciliation. What is the significance of the ongoing success of Iga Warta for the state of South Australia?

The Hon. J.W. WEATHERILL (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for her question. I am pleased today to inform the house that Saturday 11 November marked the 10-year celebration of Iga Warta. Iga Warta is a very important institution in South Australia for its contribution to both its Aboriginal culture and tourism. The government and the parliament will no doubt join with me in congratulating the milestone of the achievements of this community.

The Iga Warta community is situated on the Copley to Arkaroola Road, close to the township of Nepabunna, and includes a range of accommodation options for tourists. They cater very well for travellers such as backpackers and other casual tourists. They run a range of tours and cultural awareness programs to offer an understanding of local indigenous issues, history and culture. The knowledge of local Aboriginal culture makes this a unique experience for tourists, and I understand that a number of international travellers make their way to Iga Warta for that purpose. Indeed, many South Australians do and many more should be encouraged to do so. Iga Warta has accomplished much in the last 10 years, from providing a homeland base for its community members to establishing one of Australia's best tourism experiences.

As well as receiving visitors throughout Australia and the rest of the world, Iga Warta has hosted a number of very successful high-level meetings linked to health and other social programs. It is a rugged and beautiful part of South Australia. Iga Warta is a fantastic example of a community working together and also in partnership with respective state governments who have provided a range of supports and programs over the years. The Minister for Tourism informed me that the state government assisted in the redevelopment of Iga Warta, organising a number of projects including an aerobic waste water plant and also some elevated decking which, I understand, has greatly assisted their night-time activities, performances and story telling.

Iga Warta has received a number of awards, including an Aboriginal and Torres Strait Islander Tourism Award, the Yellow Pages 2002 South Australian Tourism Award and the South Australian Tourism Award in 2005. I look forward to other Aboriginal enterprises in the Flinders Ranges and other parts of the state which will provide opportunities for employment, community developments and, crucially, jobs for our young people. Such jobs are highly sought after within the communities because they help to hold communities together and provide valuable work opportunities that many of us now take for granted. I add my congratulations to the Iga Warta community for being such a successful community and it is a brilliant example for many others to follow.

MURRAY RIVER

The Hon. I.F. EVANS (Leader of the Opposition): My question is again to the Premier. If the weir at Wellington cannot be built but the predictions for the water supply remain the same, what other options is the government considering to specifically protect consumers relying on the Murray? Ten days ago there was an announcement of a Water Security Advisory Group to the Treasurer. The Treasurer advised that all options would be on the table, but South Australia has only been advised so far of a weir at Wellington.

The Hon. K.O. FOLEY (Trasurer): I convened a meeting in Adelaide Friday week ago of some eminent Australian experts when it comes to water: Don Blackmore,

former head of the Murray-Darling Basin Commission—what was his name—John Scanlon—

Mr Pisoni: Can't you remember?

The Hon. K.O. FOLEY: Yes, I was just asking my colleague for the person's name because I could not remember exactly the name. John Scanlon, of course, was our highly regarded commissioner on the Murray-Darling Basin Commission.

Mr Pisoni interjecting:

The Hon. K.O. FOLEY: I am the Treasurer of the state; excuse me if I did not have all the names at my fingertips. The committee has been brought—the leader is not interested in the answer, sir. He stands up and walks away. The Leader of the Opposition asked the government a question, the least he can do is sit in his seat and listen to the answer. So, he does not want an answer? Hello, Iain?

Members interjecting:

The SPEAKER: Order!

WATER ALLOCATIONS

Mr WILLIAMS (MacKillop): My question again is to the Premier, who seems to have less interest than the rest of us in this matter. What strategy is the government considering to protect citrus, stone fruit and vine crops, which underpin the horticultural industry in South Australia, if allocations stay at the current 60 per cent level or are forced to be lowered in the next irrigation season?

The Hon. K.O. FOLEY (Deputy Premier): The member for MacKillop says the government is not too interested. The Leader of the Opposition just asked me a question and then got up and walked over to the member for MacKillop. I think the Leader of the Opposition has a lot on his mind. It doesn't take long. What was that quote in the *Sunday Mail*? 'Senior Liberals openly express their disappointment and frustration with Mr Evans.' Another said, 'There was going to be a united group of Liberals to tap him on the shoulder.'

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order! The Deputy Premier is out of order.

The Hon. K.O. FOLEY: I apologise, sir; I'll come back to that. But it has only taken seven months for us to hear them say, 'We sat on our hands with Rob Kerin, struggled to make an impact, and he had much better poll results.'

Members interjecting:

The SPEAKER: Order! I have already called the Deputy Premier to order.

The Hon. K.O. FOLEY: I apologise, sir.

Members interjecting:

The Hon. K.O. FOLEY: Seven months and they're already—

Members interjecting:

The Hon. K.O. FOLEY: As I was saying, sir, we have brought together a water security advisory group that includes Mr Denis Flett, former Murray-Darling Basin Commissioner for Victoria; Mr Don Blackmore, former Chief Executive of the Murray-Darling Basin Commission; Mr John Scanlon, the current South Australian Commissioner to the Murray-Darling Basin Commission; Mr Dennis Hussey, who is a water economist of great note; and Mr Jim Hallion, a former engineer and at present the Chief Executive of the Department for Transport, Energy and Infrastructure. That group is planning and giving governments advice for a whole range of scenarios, including—

Members interjecting:

The Hon. K.O. FOLEY: Well, that is why we have brought these people together to have the best amount of expertise.

Ms Chapman interjecting:

The Hon. K.O. FOLEY: Well, you're right, I've got to tell you. I am not a water expert. If the deputy leader is a water expert—

Members interjecting:

The Hon. K.O. FOLEY: Oh! Ask me a question about the budget and I will give you the Standard and Poor's re-rating of our state to a AAA credit rating, but modesty prohibits me from having a Dorothy Dixer from my side, sir. However, I may find a way to weave in the fact that South Australia has had its AAA credit rating reaffirmed, and that is because we are very good at—

Members interjecting:

The Hon. K.O. FOLEY: We have 'strong fiscal management', says Standard and Poor's.

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order! When I come to my feet I expect the house to become silent immediately. I think the Treasurer has finished his answer—

The Hon. K.O. FOLEY: Concluding, if I may, sir. The advisory group is giving us a series of options, depending on various scenarios, including officers working on what management strategies will be available for growers in the Riverland. This crisis has come upon us rapidly.

Members interjecting:

The Hon. K.O. FOLEY: Very rapidly. As recently as July the scenario for water flow into the Murray for this year and next year was far better than it is now. Far better. We are only talking about the last few months. Members opposite can shake their head, but I took a phone call from the Prime Minister of this country when I was Acting Premier two weeks ago and John Howard said to me, 'We need to have either yourself or the Premier, if he is back, in Canberra within three days because of this crisis.' Do you think the Prime Minister of this country is negligent, that he could not foresee what was to happen? The reality is that the Prime Minister summoned all premiers to Canberra in a matter of three or four days, and why was that? That was because he was given advice of the rapidly deteriorating situation as it relates to the Murray-Darling Basin, as it relates to the drought in Queensland, and as it relates to the drought in New South Wales. The Prime Minister has become extremely worried about the rapidly deteriorating situation, as has Malcolm Turnbull.

Members interjecting:

The Hon. K.O. FOLEY: Mr Speaker, when I spoke to the Prime Minister, when I spoke to Malcolm Turnbull yesterday, there was never ever one hint of blame or criticism of the states. Do you reckon John Howard would miss an opportunity to blame a state if he thought it was the state's fault? Do you reckon John Howard in the middle of a Victorian election campaign would not berate Victoria, and would not berate New South Wales, which is heading to an election, if he thought there was some politics in this? He hasn't because there isn't politics in it. He hasn't attacked this government because this government has done nothing

wrong. In fact, John Howard and Malcolm Turnbull want to work with this government.

Karlene Maywald, the Minister for the River Murray, has been to New South Wales and had a number of meetings with Malcolm Turnbull. I understand that she has been on the phone to Malcolm Turnbull a couple of times in recent days, including over the weekend. Malcolm Turnbull came to Adelaide with about eight or nine senior bureaucrats from Canberra. Never once was there a suggestion that there was anything that this government could or should have done that we had not. Never once was there a suggestion of criticism towards the government. It was about dealing with a national crisis.

For once, can the Leader of the Opposition—for as long as he is Leader of the Opposition—show that sometimes in politics you have to stand and be bipartisan. Sometimes in politics you have to work with the government of the day, and sometimes you have to put your own petty political interests aside and work with the government—as we have done in working with the Howard government. We are prepared to put state before party. It is about time members opposite did the same.

WELLINGTON WEIR

The Hon. I.F. EVANS (Leader of the Opposition): My question is to the Premier. Are other projects being considered in case the weir at Wellington is not possible; if so, what are they?

The Hon. K.O. FOLEY (Deputy Premier): I gave a press conference and said that nothing is off the table. It is all on the table. I have just said that we have a group of senior water experts working with us.

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: I am getting a sore throat from having to speak above them, sir.

An honourable member: Well, stop shouting.

The Hon. K.O. FOLEY: Stop shouting—stop interjecting.

Members interjecting:

The Hon. P.F. CONLON: On a point of order, sir: they are upsetting me. They are going, 'Aaah.'

Members interjecting:

The SPEAKER: Order! There is far too much interjecting going on. It is persistent, and it is not interjecting, it is a running commentary. Members must come to order. I also advise ministers not to respond to interjections as that is also disorderly. I encourage the whole house to calm down. We have only 10 more minutes. Please calm down and let us get through this.

The Hon. K.O. FOLEY: Thank you, sir. The government is looking at a whole series of options other than the weir, and we are working those through. We are scoping them and seeing what the effectiveness of these measures is. We are not going to put them all out into the public domain at this stage because some may be discarded, some may not.

The Hon. P.F. Conlon: Some of them involve other states.

The Hon. K.O. FOLEY: Some of them involve other states, and some involve the commonwealth. Some of them involve matters which we discussed with the Prime Minister and his people and with Malcolm Turnbull and his people and which need further work. We are working with the commonwealth. I know that it has been a tough few weeks for the Leader of the Opposition. As one Liberal said, 'We can't afford to sleepwalk to another disaster.' We know that the Leader of the Opposition is under pressure, but I ask him: for once, can he please work constructively with the government and not try to shore up his leadership through cheap political point-scoring.

Members interjecting:

The SPEAKER: Order!

The Hon. I.F. EVANS: My question is to the Premier. What is the latest time a decision can be made to build the weir at Wellington to capture the winter/spring run-off next year? Last night, at the meeting at Langhorne Creek the Minister for the River Murray indicated that the weir would need to be in place to capture the winter/spring rains.

The Hon. M.D. RANN (Premier): As I explained to the house earlier (and I really hope that members will sit down in a moment of quiet reflection and read my ministerial statement), the Prime Minister has asked for a report to come back to all the governments by 15 December. That report is to advise us on a whole range of management issues upstream as well as in South Australia and, obviously, look at a whole range of ways of unlocking water in other states to get more effective flow downstream. I should explain to the Leader of the Opposition that South Australia is at the bottom end of the system and that there is a massive pullout of water by states upstream. So, obviously, what these national officials—

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: —are doing is actually looking at a whole range of different options and getting scientific advice from the CSIRO and the Murray-Darling Commission for a meeting that will be convened after that date of 15 December. That is why the Prime Minister and, indeed, Malcolm Turnbull have strongly supported my announcement to the summit that we should proceed with contingency planning now, prior to 15 December, rather than afterwards. It is as simple as that.

The Hon. I.F. EVANS: My question is again to the Premier. What commitments have been given, or what obligations does the state have, to other states of the commonwealth to build a weir at Wellington?

The Hon. M.D. RANN: Again, I need to point out that we are downstream. I am advised that 8 per cent of the water extracted from the River Murray is taken out by South Australia. So, what we have to do is work with the other states in order to secure the release of water that we need and the better management of that water upstream.

Mr PENGILLY (Finnis): My question is to the Premier, and it is of critical importance to the people in my district. In regard to the weir at Wellington, is the intention to let the sea water fill the Lower Lakes or to retain them as freshwater? The recent announcement of a proposed weir at Wellington does not inform the Lower Lakes communities as to whether the current freshwater levels are to be maintained or, indeed, whether the barrages are to be opened and the entire lake system is to become a tidal swamp.

The Hon. M.D. RANN: I will tell the member for Finniss what I am going to do. I am going to ask that he, as the local member, attend the briefing session on Thursday.

The Hon. I.F. Evans: Tell us now.

The Hon. M.D. RANN: No, because any attempt to tell you through the ministerial statement clearly has been lost.

It clearly has been lost on honourable members that I announced in the ministerial statement proposals to build two desalination plants, one for Point McLeay and one for Clayton. Of course, if water is not going down the river, as the member for Finniss would know, with or without the weir, the impact on salinity is going to be massive. Hence, the announcement—

Ms Chapman interjecting:

The Hon. M.D. RANN: There is laughter from the deputy leader. Look at her. She is posing. She is holding her head in her hands, because she is an expert on everything. Wasn't she the person who did not want Von Einem to be DNA tested? Wasn't she the one? That is how bright she is!

The point is, the member for Finniss should have noticed this: why would there be a need to build two desalination plants in his electorate if the water was not going to be saline? I tried in my ministerial statement to lay it out as simply as I can. I will ensure that he is given a detailed briefing by the Minister for the River Murray.

Mr PENGILLY: I have a supplementary question, Mr Speaker. It is a very simple question. Are the barrages going—

Mr Bignell: You goose.

Mr Kenyon: It is a very simple answer.

The SPEAKER: Order!

Mr PENGILLY: Are the barrages going to be opened, or will they remain shut? It is a very simple question.

The Hon. M.D. RANN: That depends on the conditions applying at the time, and that is why I will arrange for the member to have a detailed briefing from the Minister for the River Murray so that he can have a better understanding than he clearly has of the electorate he represents.

Mr PENGILLY: In view of the Premier's announcement regarding a proposed weir to be built at Wellington to prevent the flow of freshwater into lakes Alexandrina and Albert, will he say what provisions will be made to provide water to the farms on the Narrung Peninsula which take their domestic, stock and irrigation water from lakes Albert and Alexandrina? In view of the previous answer, if the barrages are to be opened, what is the alternative? There are thousands of acres of irrigation down there.

The Hon. M.D. RANN: I do not know if the honourable member is involved in all these plots going on, but if he had concentrated on my ministerial statement he would have seen reference to the 28 dairy farms. He would have seen reference to Langhorne Creek. The honourable member is saying that the weir is designed to somehow starve these areas of water: it is actually about the security of the maximum number of people in the state. I pointed out in my ministerial statement that obviously, as part of the consultation process and contingency planning, it is about how we assist Langhorne Creek in terms of the grape growers and dairy farmers there. I will make sure that this is spelt out even more clearly than in my ministerial statement in the briefing that the honourable member gets from the Minister for the River Murray.

Mr PENGILLY: As a supplementary question, given that the weir will take $20 million to build, what will be the cost of reticulating the water to both sides of the peninsula above the weir to provide the water for the irrigators that the Premier is talking about?

The Hon. M.D. RANN: I just referred the honourable member to my ministerial statement.

CHOWILLA FLOODPLAIN, WATER PUMPING

The Hon. R.G. KERIN (Frome): Will the Premier inform the house what quantity of water will be pumped onto the Chowilla floodplain during this water year and whether water is still being pumped onto the floodplain at present?

The Hon. K.O. FOLEY (Deputy Premier): I have to confess that I do not know the answer to that question.

Ms Chapman: You're in good company.

The Hon. K.O. FOLEY: Vick, can't you just—you are just like—

The SPEAKER: Order!

The Hon. K.O. FOLEY: I saw *The Best of Red Faces* on Saturday night. She's like Dickie Knee, the Deputy Leader of the Opposition: always bobbing up with something to say. The Minister for the River Murray is currently in Murray Bridge addressing the concerns of residents there, which I think is an appropriate place for her to be. Clearly, that is a question that she can answer. We will take it on notice and come back to the house.

COORONG, FRESH WATER DRAINS

Mr WILLIAMS (MacKillop): The Premier has suggested digging drains from the Upper South-East to supply fresh water to the Coorong. How will that help the Coorong when there are drought conditions in the Upper South-East and virtually no water flowing in the drains?

The Hon. M.D. RANN (Premier): It is interesting that we heard from the Deputy Leader of the Opposition today that it had not rained while we were in office. The Prime Minister and all the governments of the River Murray states are trying to deal with a serious situation, a one in 1 000-year drought. Neither the Prime Minister nor I, nor the Premiers of the other states, can make it rain. What we would like to see is some maturity from members opposite. It has not rained while we have been in government. My answer is, 'Grow up.'

BELAIR NATIONAL PARK

The Hon. J.D. HILL (Minister for Health): I lay on the table a copy of a ministerial statement made by my colleague the Hon. Gail Gago in another place, in relation to the Belair National Park.

CIGARETTES, FRUIT-FLAVOURED

The Hon. J.D. HILL (Minister for Health): I lay on the table a copy of a ministerial statement made by my colleague the Hon. Gail Gago in another place, in relation to fruit-flavoured cigarettes banned in SA from today.

BUSHFIRE PREVENTION AND MITIGATION REVIEW

The Hon. J.D. HILL (Minister for Health): I lay on the table a copy of a ministerial statement made by my colleague the Hon. Carmel Zollo in relation to bushfire prevention and mitigation.

GRIEVANCE DEBATE

SCHOOLS, YANKALILLA AREA

Mr PENGILLY (Finniss): I would like to spend my time today talking about the celebrations on the weekend of 27 and 28 October for the Yankalilla Area School: 50 years since the school was opened. In particular, I would like to spend some time talking about the major events that the school held on the Friday afternoon, an open day and school assembly. Invited to that school assembly were the minister, myself as local member, the mayor and various other dignitaries. The minister tendered an apology. However, not one official from DECS turned up for it; not one. The district superintendent was actually stopped from attending. Here we have a school of several hundred students, we have hundreds of parents there, a day of activities including a time capsule, and the minister, for one reason or another did not come, and nor did one representative from DECS.

It is an absolute total disgrace. The school was bitterly disappointed. The children had spent weeks preparing for the assembly on the Friday afternoon, when they did a replica of the opening 50 years ago. Two members of the original school committee, Mr Tom Lyddon and Mrs Betty Heerring, attended. They were hopeful of showcasing the school and showing the people from the department—and, indeed, the minister—what they were doing and what they have done, but there was not one representative from the minister's staff or the department of education. I repeat: the regional superintendent (or the district director, or whatever he is called) was told that he was not allowed to go. I find that to be the absolute height of arrogance and a disgrace, and I think it is disgusting that it was allowed to happen.

However, the celebrations went off with great gusto and were thoroughly enjoyed by everyone, despite the fact that neither the minister nor representatives of the education department attended. The people involved had a wonderful afternoon. The festivities continued on the Saturday with a fair on the school oval, which about 2 000 people attended. That was a joyous occasion for all. Once again, not one representative from the department of education was there; only the school community, the parents, the families, friends, old scholars and various other people. I understand that several thousand dollars was made in the course of the fair, which was to go towards school facilities. As we know, schools are being starved of maintenance funds and everything else, and small schools are being screwed on funding, so every school has to go out and earn as much as it can. On the Saturday night of the celebration of 50 years of Yankalilla Area School, an enormously successful dinner was held in the school gymnasium. However, yet again, no ministerial or department of education representative was present.

I find it absolutely appalling that no representative from the department of education attended any of the 50th year celebrations of a country area school (which has a sign out the front emphasising pride in public education)—indeed, one was prevented from doing so. It is enormously disappointing that that happened. The school staff were bitterly disappointed, as were the parents and children and the old people who were pupils at the original school. It took away from the celebrations that there was no representative from the department or the minister's office—or, indeed, the minister. However, the celebrations were successful. I pay tribute to the people of Yankalilla, the area school and the staff, the students and the community for the wonderful way in which they celebrated those 50 years of Yankalilla Area School. I can only reiterate the extreme disappointment of all concerned that no departmental staff attended.

INDUSTRIAL RELATIONS LAWS

Mr O'BRIEN (Napier): It is very regrettable that the High Court today rejected the challenge by the states, territories and unions to John Howard's workplace relations laws. The case challenged the commonwealth's power to override state-based industrial relations systems. The central issue in the proceedings was the commonwealth government's use of the corporations power under section 51(20) of the Australian Constitution as the central framework for the new Workchoices act. The High Court dismissed the challenge by a 5:2 majority. This was not a judgment on the fairness or equity of the Workchoices act; only the Australian people can decide upon that when they next exercise their sovereignty at the ballot box. I suspect that the strain of additional mortgage repayments, coupled with eroding wages and workplace conditions, will see a clear judgment handed out by the Australian people on Howard's reforms.

What is remarkable about today's High Court judgment, as Justice Kirby, one of the dissenting voices, observed, is as follows:

> The majority concludes that not a single one of the myriad constitutional arguments of the states succeeds. Truly this reveals the apogeé of federal constitutional power and a profound weakness in the legal checks and balances which the founders sought to provide to the Australian commonwealth.

As I have pointed out to the house on numerous occasions, the authors of the Australian Constitution intended the primary political power within Australia to reside with the states. The Australian Federation was based on the American model of defining the powers of the central body and leaving the rest to the states. Under section 51 of the Australian Constitution, the powers allocated to the central government are surprisingly limited. Since the 1920s, however, there has been a steady and unabated centralisation of power.

Over the last decade, this has accelerated as the Howard government has steadily eroded the political and policy powers of the states. The Howard government has done this by partially providing conditional funding to the states (in areas such as education and health) under the states' clear constitutional jurisdiction and by simply usurping whole areas of state jurisdiction, such as industrial relations.

The second method relies on the compliance of the High Court. Historically, the High Court's interpretation of the constitution has led to the expansion of commonwealth powers. The tone was set by the 1920 Engineers Case, where the court ruled for the first time that state governments must obey the rulings of a commonwealth arbitration court. This case had wide significance as the High Court rejected the implied limits on commonwealth power (which earlier decisions had drawn from the constitution) and held that powers should be given their literal full effect. This overturned the implied immunities and reserve powers which advantaged the states; and, after this case, Australian federalism became a centralist model.

The High Court continues to favour commonwealth power to this very day despite overwhelming evidence that suggests it is contrary to the wishes of the Australian people who are the ultimate holders of sovereignty within a democratic system. In the 100 years since Federation, 43 constitutional

amendments have been put to the Australian electorate. Of these, only eight have succeeded with just three of the proposals increasing commonwealth power in relation to the states. Most of the constitutional amendments put to the people not only failed but failed by substantial majorities.

I return to the comments made by Justice Kirby. I share Justice Kirby's view that the High Court is failing in its role as the protector of the constitution. Without question, the role of the commonwealth has grown considerably since Federation. The extent of its power, and its dominance of financial power in particular, is on the verge of rendering our constitution almost unworkable. The High Court needs to remember its role in defending the spirit as well as the letter of the constitution.

HUNGRY JACKS

Mr PISONI (Unley): I would like to speak on a proposed development in my electorate of Unley, that is, the Hungry Jacks restaurant on the corner of Glen Osmond Road and Markey Street, Eastwood. Although the proposed site is within the Glen Osmond Road business zone of the City of Burnside Development Plan, the closest residences are within the historic conservation zone. Having a business background, I am sympathetic to the commercial cause, however, any development needs to be appropriate, especially in the way in which it impacts on its surroundings, particularly its impact on local traffic conditions and amenities.

After receiving many calls from concerned constituents, I doorknocked the area surrounding the proposed development site and discovered overwhelming opposition on the basis of increased traffic noise, litter and the general inappropriate nature of having a development adjacent to a nominated historic conservation zone. Two bluestone cottages will also be demolished to make way for the development's driveway. Other people have raised their quite legitimate concern that, given our current problem of childhood obesity, it is inappropriate to have a fast-food outlet with associated advertising directly across the road from a school (St Raphael's Primary School), with Parkside Primary School just a few metres up the road.

I have presented a petition to the house from those who are against this plan. The character homes of Eastwood were largely built in the 1880s. Most of the homes are workers' cottages in the form of single-fronted, semi-detached road dwellings—one of the few examples of such a cluster remaining intact in Adelaide. It retains its unique intimacy due to the narrow allotments and traditional subdivision patterns, as well as pockets of parks and bluestone kerbing. There can be no doubt that the introduction of a fast-food driveway through this location will erode much of the area's intimacy and established historic character.

These streets that were designed for the horse and cart will simply not be able to cope with the hundreds and hundreds of cars daily that this development requires for it to be viable. The planning reports commissioned by Hungry Jacks fail to mention the historic nature of the adjoining area. To demolish a row of century-old cottages and replace them with a structure more akin to a Westfield shopping centre would be at odds with the fact that all but one of the dwellings in Markey Street are identified as contributory to the historic zone as outlined in the Burnside city development plan.

My opinions on this matter of appropriate development, loss of heritage and urban infill are on record. It was a matter that caused my Labor opponent and the Labor Party some distress during the state election campaign, but I am happy to note for the record in the house today that my position was vindicated when the state electoral commissioner wrote to me post-election conceding that my assertions were correct in regard to urban infill being a Labor policy.

I note that although the report calls the proposed development a restaurant with associated drive-through, another report predicts 50 per cent of the total patronage of this development being generated by means of the drive-through lane. Could local residents be blamed, therefore, for regarding this development as being more of a drive-through lane with associated restaurant? It is important to note that, although the proposed drive-through restaurant is within the Glen Osmond business zone, a primary objective of that zone is that it should be of a low traffic-generating nature. It should be accepted, with regard to the local opposition to this development, that schedule 1 of the Development Regulations 1993 states that a restaurant is defined as meaning 'land used primarily for the use of consumption of meals on-site'. A restaurant as defined in this way would not generate the level of traffic, noise, litter and associated lack of general amenity being opposed by local Eastwood residents.

It is quite evident that burger businesses are specifically designed to encourage and facilitate the sale of takeaway food via a dedicated drive-through service area from early morning to late at night. The increase of traffic into side streets within the historic Eastwood conservation area to access the drive-through would be exacerbated by its 'on the way home' location on a major transport route. I am in agreement with the concerns of my constituents in regard to the inappropriate nature of this development and fully support their desire that the City of Burnside deny the application.

WOMEN IN THE MEDIA

The Hon. S.W. KEY (Ashford): I had the opportunity in August to attend the Fourth Asia Communication and Media Forum and the Third World Women University Presidents Forum in Beijing, Nanjing and Suzhou. One of the interesting papers that came out of the forums that I attended was one on women as news subjects. Having had a longstanding interest in the media and its portrayal of women, which is usually very poor, I found that this paper by Professor Eleanor Ramsay, who is an adjunct professor at the University of South Australia, was very complimentary to some of the other northern Asian papers that were presented.

One of the areas that Professor Ramsay discussed at this forum was the Global Media Monitoring Project (GMMP). This project has been looking at the portrayal of women in the media since 1995. It also looks at how many women are portrayed in news content, who is included in the news, in what capacity and what levels of authority. It was interesting to see that the most recent results of the February 2005 study involved 76 countries, hundreds of monitors and 13 000 news stories. It would not be any surprise to the women in this chamber, but women were represented in only 21 per cent of the news subjects involving the people interviewed or people in the news, and there was no single major news item in which women outnumbered men as subjects.

In news stories world wide, dealing with politics, government, business and economics, 14 per cent of the subjects and stories regarding politics and governments were women; only 20 per cent of the subjects and stories regarding economics and business were women; and 64 per cent of news subjects

were men in most stories, even stories dealing with subjects such as gender-based violence.

Women were included in the news primarily as celebrities (42 per cent of the coverage), or as royalty (33 per cent of the coverage). The only areas in which women outnumbered men were as homemakers (75 per cent) or as students (51 per cent). The news stories certainly are not a mirror of what is happening in the world. For example, Rwanda has the highest representation of women in politics, at 49 per cent. I know that we are trying very hard in South Australia, certainly on the part of the Labor Party, but it seems disgraceful that women politicians made up only 13 per cent of the news subjects.

World wide, women make up 18 per cent of law professionals in news coverage, 12 per cent of business and 12 per cent of political news subjects. When we come to expert opinion, it would be no surprise to members in this chamber, particularly women, that expert opinion is overwhelmingly seen to involve men. Men make up 83 per cent of the experts—so say the media or the news—and 86 per cent of spokespeople.

When women appear—which is not too often—they appear as individuals. Women do not appear as experts or spokespeople but rather as witnesses (31 per cent); giving personal views (31 per cent); or representatives of popular opinion (34 per cent). Women disappear from the news as they age—again, no surprise; 75 per cent of women news subjects are under the age of 50 years; 50 per cent of male news subjects are 50 years or older.

As regards media professionals, 35 per cent of news items are reported by women (up, at least, from 28 per cent in 1995), and women dominate in two areas: the weather and also in stories of poverty, housing and welfare. Surprise, surprise—women disappear from the screen as they get older and men predominate in hard and serious stories. Overall, very few news stories focus specifically on women (10 per cent); news items on gender equality/inequality issues are almost non-existent—again, no surprise—at 4 per cent, and the issue of gender stereotypes is many times more likely to be reinforced rather than challenged.

Time expired.

MASON, Sir A.

Ms CHAPMAN (Deputy Leader of the Opposition): Today I wish to record and acknowledge an important occasion. On 20 October this year, Sir Anthony Mason, former chief justice of the High Court, visited South Australia with Lady Mason and officially opened the new Anthony Mason Chambers at Victoria Square in Adelaide. I place on the record that I have a direct interest in the property and chambers but, importantly, this is an occasion celebrating the first legal chamber in South Australia to be graced with the privilege of being named in honour of a member of the High Court. I record that Paul Heywood-Smith QC, Russell Harms, Paul Slattery QC, Richard Ross-Smith, David Riggall, Claire O'Connor, Jo-Anne Deuter, Tom Burchall, Alex Lazarevich and myself are members of the new chambers.

It is important that we recognise that South Australia now has the distinction of having a former chief justice of the High Court attend not just to officiate at the opening of the chambers but to lend to them his name. South Australia has never yet had a member from its bar appointed to the High Court, and that is a matter about which I express personal disappointment. I think that is most unfortunate for South Australia and it is not reflective of the standard of counsel that this state has produced. Nevertheless, it is a matter which I would hope the South Australian Bar and members of the judiciary and those in important positions within the government of this parliament would continue to promote in order to ensure that that situation be remedied in the future.

Today I wish to particularly place on record my appreciation to Sir Anthony. He provided a most entertaining and apt contribution in his presentation on the day, and in granting the opening and addressing the many present, which included Chief Justice Doyle and other members of the judiciary and the profession in South Australia, he addressed the gathering in relation to an opportunity he had had to open chambers in Hong Kong, and the authority and influence of the Feng Shui man and the advice that was taken in relation to the establishment of chambers. He said:

> Although the Feng Shui man is as much concerned with the internal layout as with external layout, it would be too much to expect that those involved in setting up these chambers have consulted the local equivalent of the Feng Shui man. But my wife has suggested that you have done the next best thing by naming the chambers after me. She takes the view—and I agree with her—that luck has always been on my side. Her view—and again I agree—is that I was very lucky to marry her! So we hope that my name will ward off evil spirits and other satanic emanations who complain of the size of counsel's fees and seek to restrict the right of counsel to represent parties in tribunals.

I hasten to add that the very extensive address given by His Honour covered more serious and sober subjects, but, of course, he expressed his appreciation for being asked, and for the honour in having his name placed on the chambers, and he also expressed his support for the South Australian profession. In conclusion, may I also say that it was acknowledged that Mr Rob Williams, architect, and Mr Reno Mattiazzo, builder, had made an extensive contribution to the renovation and development of the chambers. I also express my appreciation to them.

TELSTRA BROADBAND

Ms FOX (Bright): I rise to speak today about a gross dereliction of duty by telecommunications giant Telstra. In fact, I think this issue may be one plainly and simply of some corruption. In the electorate of Bright are the suburbs of Hallett Cove, Marino and Seacliff. Many residents in these suburbs have real problems getting broadband through Telstra, despite being just 17 kilometres away from the Adelaide city centre. They are not in Cameroon—they are in Hallett Cove. For years now local residents have struggled to receive this most important service, and for months I have been receiving complaints from local residents about this. In August I spoke directly, face to face, with an apparently senior Telstra official who assured me they would come down and talk to me. Of course, I have heard nothing. I believe I am contactable: I have a phone number, a web site, a physical address—but apparently that is not enough for Telstra.

So imagine my surprise this morning when I received a leaflet from Telstra and local federal Liberal member Kym Richardson—logos blazing—informing me, and I quote from the leaflet, that this federal Liberal MP has 'solved the problem' and that Telstra is subsidising a dinner tomorrow night where this federal member will tell residents the 'solution' to their problems. Telstra did not have the basic courtesy to inform me or those constituents whom I represent about this event. Instead, they chose to ignore us entirely and

sponsor a dinner with the member for Kingston, a person who holds his seat by 106 votes, a person who has the most marginal seat in Australia.

What is this solution that Telstra chooses to unveil at this political stunt? When I spoke to a Telstra area manager today, I was informed that the solution is as follows. Next G, (an Australia-wide Telstra initiative) is a wireless service; so, as with mobile phones, signal strength depends on proximity to a tower (generally, strength is pretty hopeless if the tower is more than five kilometres away), tower position and the number of people using the service at any one time. The amazing thing is that, as I understand it (and this has been confirmed by Telstra itself), this service is only available for use on mobile phones or laptops. What happens to the mums and dads at home who have—shock, horror—a desktop computer?

Ms Portolesi: A very good question.

Ms FOX: Indeed. Telstra informed my staff this morning that a standard wireless service that suits desktops is not available in Marino or Hallett Cove anyway. Next G is also hugely expensive, and I will cite two plans to compare prices. For nearly $30 ($29.95), another company, such as Australian Private Networks, will provide a fast service and allow 650 megabytes of data download. For $80 ($79.95), Telstra provides slower speeds and allows 400 megabytes of download. This is 200 times more expensive than other providers, if you exceed your limit, because Telstra will charge you 1.2¢ per kilobyte if you exceed its limit of $80. As you can see, Telstra charges a lot more for a lot less. It costs more for a slower, more restrictive service. It is not a broadband substitute.

I am prepared to overlook Telstra's arrogance, its refusal to invite me, its continual fobbing off of those I represent, and its desire to play political games in Australia's most marginal seat, but I cannot overlook the fact that Telstra has badly served local residents and that tomorrow night it will try to pull the wool over their eyes with an expensive and slow service that is not a solution. I have a message for Telstra: do your job for everyone, not just your political mates, and provide all those living in the south with broadband capacity; if you cannot, explain why at a genuine public meeting, not one conjured up for the member for Kingston's friends. These jokers, these bureaucrats, are paid millions to run this company, but they cannot get broadband to people 17 kilometres from the city. It is a joke, and they are a joke.

STANDING ORDERS SUSPENSION

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

That standing orders be so far suspended as to enable me to introduce a bill forthwith.

The DEPUTY SPEAKER: I have counted the house and, as an absolute majority of the whole number of members of the house is not present, ring the bells.

An absolute majority of the whole number of members being present:

Motion carried.

STATUTES AMENDMENT (DOMESTIC PARTNERS) BILL

The Hon. M.J. ATKINSON (Attorney-General) obtained leave and introduced a bill for an act to amend the Family Relationships Act 1975 and various other acts to provide for recognition of certain domestic relationships. Read a first time.

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

That this bill be now read a second time.

It is this government's policy to remove unjustified legislative discrimination against same-sex couples. In February 2003, the government published a discussion paper seeking comment on proposed amendments in the areas of inheritance, health and care, parenting, and other matters. Some 2 000 submissions were received, at least half of which were against such a legislative amendment. A bill was introduced in 2004, but it proved so controversial that, in December 2004, the parliament withdrew it and referred it to the Social Development Committee. The committee reported on 25 May 2005. It expressed support for the bill but found that there was a need also to recognise in law non-sexual mutually dependent relationships, subject to safeguards.

The government duly introduced a further bill in 2005 with the benefit of the committee's findings. The bill was substantially amended in its passage to provide an opt-in regime for domestic co-dependent partners so that those who wished for legal recognition of their relationships could make a cohabitation agreement with legal effect. That bill, however, was not considered by this house before the parliament was prorogued, and it therefore lapsed.

Despite the obstacles encountered thus far, the government remains unwavering in its pledge to remove unjustified legislative discrimination against same-sex couples. Nothing in all the discussion generated by the earlier bills has to any extent persuaded the government that same-sex couples who live together as life partners on a genuine domestic basis do not deserve exactly the same recognition as is enjoyed by opposite sex de facto couples.

I will not delay the house by repeating all that I said when I introduced the earlier bills, but I do remind members that the partnerships of homosexual couples have much the same social consequences as those of opposite sex couples. For example, the couple may merge their property and financial affairs. They may provide care for each other during periods of illness or disability, and they may be involved in caring for children together. It is indefensible that our law recognises the one type of relationship and not the other.

The result of this discrimination is that same-sex couples are denied some rights and exempted from some obligations that accrue to unmarried opposite sex partners in the same situation. For example, if one's de facto partner is killed at work or through negligence or by homicide and there has been the requisite period of cohabitation, then the surviving dependent partner is entitled to claim compensation for the loss of the deceased's financial support. A dependent same-sex partner has no such entitlement. Likewise, if a person's de facto partner dies without leaving a will, where there has been the requisite period of cohabitation, the remaining partner is entitled to inherit the estate, or part of it, depending on whether the deceased also left children. A same-sex partner in that situation cannot inherit. Again, if the deceased had made a will but had disinherited the surviving de facto partner, that person can apply to have provision made out of

the estate despite the will. A same-sex partner, however, cannot. There are many other examples.

Conversely, there are also some instances where the present law imposes obligations or restrictions on unmarried opposite sex couples that are not imposed on same-sex couples. For instance, at present, a person who is elected a member of a local council or a member of parliament must disclose on the register of interests the interests of his or her putative spouse. A member of a same-sex couple is under no obligation to disclose the interests of his or her partner. Again, a person whose de facto partner has received a first home owner's grant or already owns land is not himself entitled to a first home owner's grant but a member of a same-sex couple in that situation is. This bill is designed to correct these obvious inequalities.

This bill is not, however, confined to the case of same-sex couples. It is clear to the government that many members would like to see the same legal recognition extended to those people who live a shared life as close companions but who are not in a sexual relationship.

Mr Williams: Good on you, Joe Scalzi.

The Hon. M.J. ATKINSON: Joe who? Examples that have been mentioned include the two elderly ladies who are friends of long standing and live together under one roof, not as housemates only but in a supportive personal relationship. Perhaps they pool their income to pay for the needs of both. Perhaps they divide household tasks between them according to skills or preferences, so that one does the shopping for both and the other the gardening. Perhaps they provide practical help to each other. For example, one might be able to drive and the other not, so the driver takes the other to medical appointments. Perhaps they share a social life so that they entertain mutual friends at their home and go out together to visit friends or take part in family occasions. In many respects, they lead the same sort of shared life that couples lead but they may not have any sexual relationship. This bill proposes to give those life partners the same legal recognition as a de facto couple or a same-sex couple.

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

Leave granted.

No doubt these are far-reaching rights. For example, there may be some people living in relationships of this kind who would intend their children, rather than their partner, to inherit their estate. In that case, they will need to make a will clearly expressing their intentions. No doubt too there may be some loss of privacy occasioned to these partners. If, for instance, they do not now disclose their financial affairs fully to each other, under this Bill situations can arise where they will have to do so. I am thinking of the case where one of them, for example, is elected a member of a local council. The partner's financial interests will have to be disclosed. Further, for those in a qualifying relationship, their property will no longer be wholly their own. If the relationship ends, either may be liable to a property claim by the other, which may need to be resolved by court proceedings. All this necessarily goes along with recognition. The Government understands, however, that it is the wish of a majority of Members that these partners be recognised in the same way and to the same extent as are couple relationships.

This Bill, then, proposes to recognise what are called 'couples'. This word has been chosen because it is apt to convey a relationship between two, and only two, people. It is not intended that a person can be in more than one domestic partnership at any given time. A 'couple' will be any two adults who live together on a genuine domestic basis, that is, they share their home and their lives. It does not matter that they are related by family. For example, they may be siblings. The Bill intends to refer to life-partner relationships, however, and not to other domestic arrangements. The term is not intended to capture commercial arrangements, like the case of the live-in housekeeper, nanny or carer who is paid for her services. It is not intended to capture boarders or paying guests in the home, nor the occupants of a rooming-house. It is not intended to capture people who share their lodgings without sharing their lives, for example, a group of university students who live in a share house, even though they may contribute to common expenses and share in domestic tasks. The intention of the Bill is to catch two adults who live together in an enduring personal relationship of mutual affection and support, whether or not the relationship is sexual. A married couple, however, cannot be domestic partners and their legal situation is unchanged by this Bill.

A *de facto* couple who have had a child together will be domestic partners regardless of how long they have lived together, as long as they are living together on the critical date. For those couples who do not produce children, however, the Bill adopts as the criterion for recognition three years of living together continuously in such a relationship, or three years' of living together in total over the four years preceding the critical date. They must also be living together on the critical date. This is an important change to the present law, which recognises childless putative-spouse relationships only after five years' of living together. That is too long. In other states it is generally only two or three years. Under our own *De Facto Relationships Act*, the period for property rights to arise from cohabitation is three years. It is reasonable to infer that those who live together as partners for three years have an enduring relationship and will have adjusted their lives accordingly to the extent that the law should recognise them.

If there is doubt about whether a relationship is a domestic partnership, the Bill provides for the courts to decide. The courts will take into account a list of factors similar to those that apply in other states; the ownership of property, the degree of financial dependence, the degree of mutual commitment to a shared life and other factors. It will also look at whether the parties entered into a domestic partnership agreement, which I will explain shortly. The relationship does not need to have all of the listed features to be recognised by the law as a domestic partnership, but the more it has, the more likely it is to be recognised. Moreover, the Bill also proposes to allow the courts, where the interests of justice require this, to recognise a relationship that would be a close personal relationship but for falling slightly short of the time requirement.

For most legal purposes, the parties do not have to take any formal step to secure the legal recognition of the relationship. Once the criteria are met, the relationship is recognised automatically as a matter of law. In case of doubt, it is always open to anyone whose legal rights or duties depend on whether two people were, on a given date, domestic partners to apply for a declaration, but in many cases where there is no doubt and no contest, no declaration will be needed.

There will, however, remain a few legal purposes for which a formal declaration from a court is required. Before a person can inherit upon the death of an intestate partner, for example, the person will first need a declaration. Only the Supreme and District Courts can now make such a declaration but the Bill provides for the Magistrates Court also to be able to make such declarations. A declaration depends upon findings of fact. Those findings present no greater difficulty than is presented in matters ordinarily determined by the Magistrates Court in its day-to-day business. An application there may be cheaper than an application to a higher court.

Amendments to the confidentiality provisions of section 13 of the *Family Relationships Act* are also included in the Bill. At present, the Act prohibits the publication of the names of parties to proceedings either in the newspaper, by radio or on television. It does not extend to publication on the internet, nor does it cover identifying information apart from names. By contrast, when the State superannuation Acts were amended in 2003, the Parliament inserted into each of them a more extensive confidentiality provision that protected not only the names of the parties but any identifying information, including pictures, and prohibited not only publication in the newspaper, by radio or on television, but also on the internet or by any form of communication with the public. The Government thought that this wider confidentiality provision should be the general rule for all applications for declaration of *de facto* partner status. The Bill therefore proposes to insert the same provision into the *Family Relationships Act*, so that it will apply to all applications.

The Bill also permits domestic partners, if they wish, to enter into domestic partnership agreements under the *Domestic Partners Property Act* (as the *De Facto Relationships Act* will now be called). These agreements can be made legally binding. They can cover the matter of how property will be distributed if the relationship ends but they can also cover financial arrangements during the relationship and indeed any other matters at all to do with their domestic

partnership for which the parties wish to provide. These agreements can be enforced in court just like contracts. It is important to understand, however, that these agreements have force only under the *Domestic Partners Property Act*. An agreement does not in and of itself create a domestic partnership for other legal purposes. For legal recognition of the relationship, the parties must still live together for the required time and may still require a declaration. Rather, this agreement simply enables them to make provision for how they conduct their life together as partners, for example, how their money will be used or how their property will be owned, or anything else about their shared life that they may wish to regulate. That they have made such an agreement, however, indicates the couple's serious intentions and thus will be one factor that the court must weigh when it comes to decide whether to declare the parties to be domestic partners.

I should explain how the transition to the new law will occur. The new law will apply not only to partnerships that are formed in future but also to those that now exist, where the two adults have already been living together as a couple on a genuine domestic basis for at least three years. That means that both for same-sex couples and for companionate couples, if they have been sharing their homes and their lives together for three years continuously, or three out of the last four years, when the new law begins, they will immediately accrue all the rights and duties of the legally-recognised couple. If people now living in such relationships have any concern about this, they need to seek legal advice without delay. The recognition proposed by this Bill is automatic. It is not an opt-in regime.

In most respects, then, this Bill assimilates the position of same-sex partnerships and enduring companionate relationships to the position of *de facto* couples. There is an important exception, however. When the Government consulted in 2003 on its proposal for legal recognition of same-sex couples, it received more than 2 000 replies. These replies made it clear that two matters are especially controversial: the adoption of children by same-sex couples and access by such couples to assisted reproductive technology. Indeed, of the thousand or so people who expressed opposition to the proposed Bill, the great majority appeared to be mainly, or in some cases solely, concerned about these two matters.

It is apparent that any amendment of the *Adoption Act 1988* or the *Reproductive Technology Act* would be controversial. Many South Australians are concerned, alarmed or even horrified at the prospect of the adoption of children by same-sex couples and at the possibility that a same-sex couple could use reproductive technology to produce a child. It is of course the reality now that some same-sex couples do raise children. For example, the children of one partner from a former relationship may live with the same-sex couple by agreement of the parents or by order of the Family Court. With or without legislative change, some children will grow up in such families. Nonetheless, there would be fervent public opposition to legislation amending either Act. The Bill does not make any changes to the laws of adoption or reproductive technology.

To assist Members in understanding the effects of this measure, it may be useful briefly to canvass the chief areas of law that are changed by the Bill.

First, there are those laws that give domestic partners the legal rights of family members. These include inheritance rights and rights to claim compensation when a partner is killed. They also include the right to apply for guardianship orders where a partner is incapacitated and to consent or refuse consent to medical treatment, organ donation, *post mortem* examination and cremation. For these purposes, wherever an opposite-sex partner now has rights as a next-of-kin, those rights will now accrue also to domestic partners.

Second, there are amendments to Acts that regulate the professions. This arises where the law permits a company to be registered or licensed as a practitioner of a profession. In these cases, the present law generally provides that the directors of a company practitioner must be practitioners, except where there is a two-director company and one director is a close relative of the other. Domestic partners will be treated as relatives for the purposes of these provisions. This also means that, if the relationship ends, the right of the domestic partner to hold shares in such companies ends, just as it does now when putative spouses cease co-habitation.

Third, there are provisions dealing with conflicts of interest. These require the disclosure of the interests of a domestic partner in the same way that the person must now disclose the interests of a putative spouse. Similarly, there are provisions dealing with relevant associations between people for corporate governance purposes; for example, in the context of transactions between the entity and its directors or their associates. The *Co-operatives Act 1997* is an example.

Fourth, there are those Acts under which a person's association with another person is relevant in deciding whether the first person is suitable to hold a licence, such as a gaming licence. A domestic partner will now be an associate for this purpose.

Fifth, there are some statutory provisions that entitle the Government to make certain financial recovery from a spouse or prioritise government charges over land ahead of existing charges in favour of a spouse. Again, the same provision will be made for a domestic partner.

There have also been some other minor changes to some of the superannuation Acts. At present, both the *Judges Pensions Act 1971* and the *Governors Pensions Act 1976* require that to be eligible for a pension the spouse must have been married to the judge or governor while he or she held office. The same is not required, however, under the *Parliamentary Superannuation Act 1974*. For consistency, the two former Acts are amended so that a spouse or domestic partner of a judge or governor can claim the death benefit irrespective of whether the relationship existed while the judge or governor held office.

Further, the Bill provides that it will be the case under all four State superannuation Acts that death benefit entitlements arise if the person was married to the member on the date of death, regardless of whether the parties were married while the person was still employed. At the moment, some of these Acts require that a spouse who was not married to the member during relevant employment complete a period of cohabitation (whether as a *de facto* or married couple) before death to qualify for a benefit. The effect of the changes is to relax that requirement to match the position if the member dies before retiring. In that case there is no period of cohabitation required for married couples.

The Bill is an important step towards equal civil rights for all South Australians. Our law has been too slow to recognise the rights and duties of people in same-sex relationships. That many people choose to live in these relationships, much like those of heterosexual people, is a fact of life and one that the law can no longer ignore. The Bill fulfils the Government's commitment to remove unjustified legislative discrimination against these couples. Further, the Bill legally recognises enduring companionate relationships that are not of a sexual nature but which, because of the high degree of involvement and interdependence between the partners, should nevertheless be given legal consequences.

The Bill is a just measure and I commend it to honourable Members.

EXPLANATION OF CLAUSES

General remarks

This measure, in general, seeks to achieve a measure of equality before the law for couples who live together on a genuine domestic basis in a close personal relationship.

The proposed amendments to the *Family Relationships Act 1975* are the source of understanding for what is meant by the term "domestic partner". Current Part 3 (providing for declarations in relation to putative spouses) will be deleted and a new Part will be substituted. As a consequence, the term "putative spouse" will no longer be used in the statute books (other than in each of the 4 Acts which provide for superannuation schemes where, in each of those Acts, it is internally defined).

The opportunity has also been taken to achieve a measure of consistency across the statute book. In most cases, a domestic partner will be defined as a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not, while, in a number of Acts (such as the *Inheritance (Family Provision) Act 1972*), a declaration will be required. However, whether a declaration is required or not for the purposes of a particular Act, the matters set out in proposed Part 3 of the *Family Relationships Act 1975* are relevant in determining whether or not a particular person is, or was, at a particular time, the domestic partner of another.

Part 1—Preliminary

This Part contains the formal clauses.

Part 2—Amendment of *Family Relationships Act 1975*

The proposed amendments to this Act provide the key to the amendments proposed elsewhere in this measure.

It is proposed to expand the definition of ***Court*** for the purposes of this Act to mean the Supreme Court, the District Court or the Magistrates Court.

It is proposed to delete current Part 3 (which provides for declarations in relation to putative spouses) and substitute a new Part that provides for domestic partners.

New Part 3 (Domestic partners) contains sections 11 (Interpretation), 11A (Domestic partners) and 11B (Declaration as to domestic partners). New section 11A provides that a person is, on a certain date, the ***domestic partner*** of another if he or she is, on that date, living with that person in a close personal relationship and—

(a) he or she—

(i) has so lived with that other person continuously for the period of 3 years immediately preceding that date; or

(ii) has during the period of 4 years immediately preceding that date so lived with that other person for periods aggregating not less than 3 years; or

(b) a child, of whom he or she and the other person are the parents, has been born (whether or not the child was still living at that date).

A ***close personal relationship*** is defined in new section 11 as the relationship between 2 adult persons (whether or not related by family and irrespective of their gender) who live together as a couple on a genuine domestic basis. The definition excludes the relationship between a married couple and any relationship where 1 of the persons provides the other with care or support (or both) for fee or reward, or on behalf of some other person or organisation.

Proposed section 11B provides that a person whose rights or obligations depend on whether he or she and another person, or 2 other persons, were, on a certain date, domestic partners 1 of the other may apply to the Court for a declaration as to the relationship.

If, on an application, the Court is satisfied that—

(a) the persons in relation to whom the declaration is sought were, on the date in question, domestic partners within the meaning of new section 11A; or

(b) in any other case—

(i) the persons in relation to whom the declaration is sought were, on the date in question, living together in a close personal relationship; and

(ii) the interests of justice require that such a declaration be made,

the Court must declare that the persons were, on the date in question, domestic partners 1 of the other. All of the circumstances of any particular relationship must be taken into consideration when considering whether to make such a declaration.

Proposed section 13 is substantially the same as a provision that currently appears in each of the Superannuation Acts and provides for confidentiality of proceedings relating to applications under this Act. New section 13 creates an offence (punishable by a fine of $5 000 or imprisonment for 1 year) if a person publishes ***protected information*** (that is, information relating to such an application that identifies or may lead to the identification of an applicant, or an associate of the applicant, or a witness to an application).

The transitional provision provides that if, before the commencement of the transitional provision, a declaration has been made under Part 3 of the *Family Relationships Act 1975* that a person was, on a certain date, the putative spouse of another, the declaration will, if the case requires, be taken to be that the person was, on that date, the domestic partner of the other.

Part 3—Amendment of *Adelaide Dolphin Sanctuary Act 2005*

It is proposed to insert definitions of ***spouse*** and ***domestic partner*** in the appropriate places. The definitions to be inserted in the appropriate place are as follows:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

spouse—a person is the spouse of another if they are legally married.

It is proposed to amend section 3(2)(b) of the Act to insert "domestic partner" after "spouse,". The effect of this will be to include domestic partners in the list of who is to be considered to be a close associate of another for the purposes of the Act.

Part 4—Amendment of *Administration and Probate Act 1919*

It is proposed to insert a definition of ***domestic partner*** and, as a consequence, delete the definitions of ***putative spouse*** and ***spouse*** and substitute a new definition of ***spouse***. This is 1 of the 7 Acts that does require a declaration to be made under the *Family Relationships Act 1975* that a person is the domestic partner of the deceased as at the date of his or her death. The new definition of spouse, in relation to a deceased person, that is to be inserted makes it clear that this means a person who was legally married to the deceased as at the date of his or her death. Other proposed amendments are consequential.

The transitional provision provides that an amendment made by this measure to the *Administration and Probate Act 1919* applies only in relation to the estate of a deceased person whose death occurs after the commencement of the amendment.

Part 5—Amendment of *Aged and Infirm Persons' Property Act 1940*

The amendments proposed to this Act will insert definitions of ***domestic partner*** and ***spouse*** in the appropriate place. A person is the spouse of another if they are legally married. A domestic partner is defined within the meaning of the *Family Relationships Act 1975*, whether or not declared as such under that Act. The other amendments proposed to this Act will insert "domestic partner" wherever "spouse" occurs.

Part 6—Amendment of *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*

This is 1 of the Acts that has its own definition of domestic partner. A person is the domestic partner of another if he or she lives with the other in a close personal relationship (as defined). The other proposed amendment to this Act will insert "domestic partner" where "spouse" occurs.

Part 7—Amendment of *ANZAC Day Commemoration Act 2005*

Part 8—Amendment of *Architects Act 1939*

Part 9—Amendment of *Associations Incorporation Act 1985*

Part 10—Amendment of *Authorised Betting Operations Act 2000*

Part 11—Amendment of *Carers Recognition Act 2005*

Part 12—Amendment of *Casino Act 1997*

Part 13—Amendment of *Chiropractic and Osteopathy Practice Act 2005*

Part 14—Amendment of *City of Adelaide Act 1998*

The amendments proposed to each of the preceding Acts will insert definitions of ***domestic partner*** and ***spouse*** in the appropriate place. A person is the spouse of another if they are legally married. A domestic partner is defined within the meaning of the *Family Relationships Act 1975*, whether or not declared as such under that Act. The remainder of the amendments are consequential on the insertion of those definitions or provide for transitional arrangements.

Part 15—Amendment of *Civil Liability Act 1936*

For the purposes of this Act, a person is a domestic partner in relation to a cause of action arising under the Act if the person is declared under the *Family Relationships Act 1975* to have been a domestic partner on the day on which the cause of action arose. The new definition of spouse, in relation to any cause of action arising under the Act, makes it clear that this means a person who was legally married to another on the day on which the cause of action arose.

The remainder of the proposed amendments are consequential but for the insertion of a provision that provides that an amendment made by this measure to the *Civil Liability Act 1936* applies only in relation to a cause of action that arises after the commencement of the amendment.

Part 16—Amendment of *Community Titles Act 1996*

Part 17—Amendment of *Conveyancers Act 1994*

Part 18—Amendment of *Co-operatives Act 1997*

Part 19—Amendment of *Correctional Services Act 1982*

Part 20—Amendment of *Cremation Act 2000*

Part 21—Amendment of *Criminal Assets Confiscation Act 2005*

Part 22—Amendment of *Criminal Law Consolidation Act 1935*

Part 23—Amendment of *Criminal Law (Forensic Procedures) Act 1998*

The amendments proposed to the preceding Acts will insert definitions of ***domestic partner*** and ***spouse*** in the appropriate place. A person is the spouse of another if they are legally married. A domestic partner is defined within the meaning of the *Family Relationships Act 1975*, whether or not declared as such under that Act. Other amendments are consequential.

Part 24—Amendment of *Criminal Law (Sentencing) Act 1988*

This is another of the Acts that has its own definition of domestic partner. A person is the domestic partner of another if he or she lives with the other in a close personal relationship (as defined). The other

amendment inserts "domestic partner" appropriately in the definition of "family".

Part 25—Amendment of *Crown Lands Act 1929*

The amendments proposed to this Act will insert definitions of ***domestic partner*** and ***spouse*** in the appropriate place. A person is the spouse of another if they are legally married. A domestic partner is defined within the meaning of the *Family Relationships Act 1975*, whether or not declared as such under that Act. The other amendment is consequential.

Part 26—Amendment of *De Facto Relationships Act 1996*

This Act establishes a legislative scheme whereby a husband and wife de facto can make agreements to deal with property settlements and financial and other arrangements during the course of the relationship and after the relationship ends. It is not proposed to alter substantially the essential requirements of the scheme except that the scheme will now apply to domestic partners (as defined in the Act). As a result, it is proposed to rename the Act as the *Domestic Partners Property Act 1996*. Other amendments are consequential.

Part 27—Amendment of *Dental Practice Act 2001*

Part 28—Amendment of *Development Act 1993*

The amendments proposed to the preceding Acts are consistent with proposed amendments in this measure to the majority of other Acts.

Part 29—Amendment of *Domestic Violence Act 1994*

This Act provides for applications to be made to the Magistrates Court relating to an order restraining a person from committing domestic violence against his or her husband or wife or de facto partner. It is proposed to extend this to allow domestic partners to make such applications if the circumstances require.

Part 30—Amendment of *Electoral Act 1985*

Part 31—Amendment of *Environment Protection Act 1993*

The proposed amendments to the preceding Acts are consistent with those proposed generally.

Part 32—Amendment of *Equal Opportunity Act 1984*

In addition to amendments consistent with amendments elsewhere in this measure relating to domestic partners, an amendment is proposed to section 50, which will extend the exemption that religious bodies have in relation to discrimination on the grounds of sexuality to discrimination in relation to same sex partners cohabiting on a genuine domestic basis.

Part 33—Amendment of *Evidence Act 1929*

Part 34—Amendment of *Fair Work Act 1994*

Part 35—Amendment of *Fire and Emergency Services Act 2005*

Part 36—Amendment of *Firearms Act 1977*

The amendments proposed in the preceding Parts are consistent with the amendments proposed to the majority of Acts to be amended by this measure.

Part 37—Amendment of *First Home Owner Grant Act 2000*

This is another of the Acts that has its own definition of domestic partner. A person is the domestic partner of another if he or she lives with the other in a close personal relationship (as defined). Other proposed amendments to this Act are consequential.

The transitional provision provides that an amendment made by this measure to the *First Home Owner Grant Act 2000* applies only in relation to an application for a first home owner grant made after the commencement of the amendment.

Part 38—Amendment of *Flinders University of South Australia Act 1966*

Part 39—Amendment of *Gaming Machines Act 1992*

Part 40—Amendment of *Genetically Modified Crops Management Act 2004*

The amendments proposed in the preceding Parts are effectively the same as the amendments proposed to the majority of the Acts to be amended by this measure.

Part 41—Amendment of *Governors' Pensions Act 1976*

The amendments proposed to this Act will extend the pension scheme for Governors from their spouses to include domestic partners.

The Act as amended will require that a declaration be made under the *Family Relationships Act 1975* that a person was the domestic partner of a deceased Governor as at the date of the Governor's death.

Other amendments are consequential but for the transitional provision which provides that an amendment made by a provision of this measure to a provision of the *Governors' Pensions Act 1976* that provides for, or relates to, the payment of a pension to a person on the death of a Governor, or former Governor, applies only if the death occurs after the commencement of the amendment.

Part 42—Amendment of *Ground Water (Qualco-Sunlands) Control Act 2000*

Part 43—Amendment of *Guardianship and Administration Act 1993*

Part 44—Amendment of *Heritage Places Act 1993*

Part 45—Amendment of *Hospitals Act 1934*

Part 46—Amendment of *Housing and Urban Development (Administrative Arrangements) Act 1995*

The amendments proposed in the preceding Parts are effectively the same as the amendments proposed to the majority of Acts to be amended by this measure.

Part 47—Amendment of *Inheritance (Family Provision) Act 1972*

This is the fourth of the 7 Acts that requires a declaration to be made under the *Family Relationships Act 1975* that a person is the domestic partner of the deceased as at the date of his or her death. The new definition of spouse, in relation to a deceased person, that is to be inserted makes it clear that this means a person who was legally married to the deceased as at the date of his or her death. The other amendment is consequential.

It is further provided that the amendments will only apply in relation to the estate of a deceased person whose death occurs after the commencement of the amendments.

Part 48—Amendment of *Judges' Pensions Act 1971*

The amendments proposed to this Act will extend the pension scheme for judges to domestic partners.

The Act as amended will require that a declaration be made under the *Family Relationships Act 1975* that a person was the domestic partner of a deceased Judge as at the date of the Judge's death.

Proposed new section 9 provides for the division of benefits where a deceased judge or former judge is survived by more than 1 spouse or domestic partner. Any benefit to which a surviving spouse or domestic partner is entitled under the Act will be divided between them in a ratio determined by reference to the length of the periods for which each of them cohabited with the deceased. A substantially similar provision is included in each of the Acts dealing with superannuation entitlements.

An amendment made by a provision of this measure to a provision of the *Judges' Pensions Act 1971* that provides for, or relates to, the payment of a pension to a person on the death of a judge, or former judge, applies only if the death occurs after the commencement of the amendment.

Part 49—Amendment of *Juries Act 1927*

These proposed amendments are consistent with the majority approach but will not affect the eligibility of a person to serve on a jury empanelled before the commencement of the amendments.

Part 50—Amendment of *Land Tax Act 1936*

This is another of the Acts that has its own definition of domestic partner. A person is the domestic partner of another if he or she lives with the other in a close personal relationship (as defined). The other proposed amendment to this Act will insert appropriately "domestic partner" in the definition of "family".

Part 51—Amendment of *Legal Practitioners Act 1981*

Part 52—Amendment of *Liquor Licensing Act 1997*

Part 53—Amendment of *Local Government Act 1999*

Part 54—Amendment of *Medical Practice Act 2004*

Part 55—Amendment of *Members of Parliament (Register of Interests) Act 1983*

Part 56—Amendment of *Mental Health Act 1993*

Part 57—Amendment of *Natural Resources Management Act 2004*

Part 58—Amendment of *Occupational Therapy Practice Act 2005*

The amendments proposed to the preceding Acts are consistent with the amendments proposed to the majority of Acts by this measure.

Part 59—Amendment of *Parliamentary Superannuation Act 1974*

This is the first of the 4 "superannuation Acts" to be amended. The amendments proposed to each of those 4 Acts are consistent with each other but different from what is being proposed in respect of other Acts. That is because each of the superannuation Acts has, since 2003, extended superannuation entitlements to legally married couples and putative spouses. It is not proposed at this stage to further extend superannuation entitlements to all domestic partners. Currently, a putative spouse is defined as—

(a) a person who is a putative spouse within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not; or

(b) a person in respect of whom a declaration has been made by the District Court under section 7A of this Act (that is, a same sex couple).

The proposed changes will have a similar effect except that there will be no reference to the *Family Relationships Act 1975* and a declaration as to the status of a person will not necessarily be required.

The proposed amendments will effect little substantive change to the principal Act but are necessary as a consequence of the proposed changes to the *Family Relationships Act 1975* (see Part 2 of this measure).

Part 60—Amendment of *Partnership Act 1891*

Part 61—Amendment of *Pastoral Land Management and Conservation Act 1989*

Part 62—Amendment of *Pharmacists Act 1991*

Part 63—Amendment of *Phylloxera and Grape Industry Act 1995*

Part 64—Amendment of *Physiotherapy Practice Act 2005*

Part 65—Amendment of *Podiatry Practice Act 2005*

Part 66—Amendment of *Police (Complaints and Disciplinary Proceedings) Act 1985*

The amendments proposed to the preceding Acts are consistent with the amendments proposed to the majority of Acts by this measure. That is, definitions of spouse and domestic partner are to be inserted appropriately with any necessary consequential amendments.

Part 67—Amendment of *Police Superannuation Act 1990*

The proposed amendments to this Act are consistent with the amendments proposed to each of the 4 superannuation Acts with an additional amendment to section 32 to achieve consistency.

Part 68—Amendment of *Problem Gambling Family Protection Orders Act 2004*

This is another of the Acts that has its own definition of domestic partner. A person is the domestic partner of a respondent if he or she lives with the respondent in a close personal relationship (as defined). The other proposed amendment to this Act will insert "domestic partner" wherever "spouse" occurs.

Part 69—Amendment of *Public Corporations Act 1993*

The amendments proposed to this Act are consistent with the amendments proposed to the majority of Acts by this measure.

Part 70—Amendment of *Public Intoxication Act 1984*

The amendments proposed to this Act are consistent with the amendments proposed to the *Problem Gambling Family Protection Orders Act 2004* and the other Acts that have inserted their own definition of domestic partner.

Part 71—Amendment of *Public Sector Management Act 1995*

The amendments proposed to this Act are consistent with the amendments proposed to the majority of Acts by this measure.

Part 72—Amendment of *Public Trustee Act 1995*

This is another Act under which a declaration under the *Family Relationships Act 1975* is required in order to establish whether or not a person was, at a particular date, the domestic partner of another.

Part 73—Amendment of *Racing (Proprietary Business Licensing) Act 2000*

Part 74—Amendment of *Renmark Irrigation Trust Act 1936*

Part 75—Amendment of *Retirement Villages Act 1987*

Part 76—Amendment of *River Murray Act 2003*

Part 77—Amendment of *Road Traffic Act 1961*

Part 78—Amendment of *South Australian Health Commission Act 1976*

Part 79—Amendment of *South Australian Housing Trust Act 1995*

Part 80—Amendment of *South Eastern Water Conservation and Drainage Act 1992*

The amendments proposed in the preceding Parts are consistent with the amendments proposed to the majority of Acts by this measure.

Part 81—Amendment of *Southern State Superannuation Act 1994*

The proposed amendments to this Act are consistent with the amendments proposed to the other superannuation Acts.

Part 82—Amendment of *Stamp Duties Act 1923*

The definitions of ***domestic partner*** and ***spouse*** are consistent with those used in the majority of Acts.

Most of the other amendments are consequential. The proposed amendments to section 71CBA will have the effect of extending the stamp duty exemption provided by that section to certain instruments executed under the *Domestic Partners Property Act 1996*.

Section 91 is to be amended so that, for the purposes of Part 4 of the Act, a person is an ***associate*** of another if they are in a close personal relationship.

A transitional provision will provide that an amendment made by this measure to the *Stamp Duties Act 1923* will apply only in relation to instruments executed after the commencement of the amendments.

Part 83—Amendment of *Superannuation Act 1988*

The proposed amendments to this Act are consistent with the amendments proposed to the other superannuation Acts with an additional amendment to section 38 to achieve consistency.

Part 84—Amendment of *Superannuation Funds Management Corporation of South Australia Act 1995*

Part 85—Amendment of *Supported Residential Facilities Act 1992*

The amendments proposed in the preceding Parts are consistent with the amendments proposed to the majority of Acts by this measure.

Part 86—Amendment of *Supreme Court Act 1935*

This is the last of the Acts under which a declaration under the *Family Relationships Act 1975* is required in order to establish whether or not a person was, at a particular date, the domestic partner of another.

Part 87—Amendment of *Transplantation and Anatomy Act 1983*

Part 88—Amendment of *University of Adelaide Act 1971*

Part 89—Amendment of *University of South Australia Act 1990*

Part 90—Amendment of *Upper South East Dryland Salinity and Flood Management Act 2002*

Part 91—Amendment of *Veterinary Practice Act 2003*

The amendments proposed in the preceding Parts are consistent with the amendments proposed to the majority of Acts by this measure.

Part 92—Amendment of *Victims of Crime Act 2001*

An amendment to this Act effected by a provision of this measure only applies in relation to a claim for statutory compensation for an injury caused by an offence committed after the commencement of the amendment.

Part 93—Amendment of *Wills Act 1936*

The proposed amendments to this Act are consistent with those proposed to the majority of Acts by this measure.

Part 94—Amendment of *Workers Rehabilitation and Compensation Act 1986*

It is proposed that, for the purposes of this Act, a person is the domestic partner of a worker if he or she lives with the worker in a close personal relationship and—

(a) the person—

(i) has been so living with the worker continuously for the preceding period of 3 years; or

(ii) has during the preceding period of 4 years so lived with the worker for periods aggregating not less than 3 years; or

(iii) has been living with the worker for a substantial part of a period referred to in subparagraph (i) or (ii) and the Corporation considers that it is fair and reasonable that the person be regarded as the domestic partner of the worker for the purposes of this Act; or

(b) a child, of whom the worker and the person are the parents, has been born (whether or not the child is still living);

Other amendments are consequential.

The transitional clause makes it clear that an amendment to the Act effected by this measure that provides a lump sum or weekly payments to a person on the death of a worker will apply only if the death occurs after the commencement of the relevant amending provision.

Mr WILLIAMS secured the adjournment of the debate.

FOREST PROPERTY (CARBON RIGHTS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 20 September. Page 891.)

Mr WILLIAMS (MacKillop): I will be the lead (and possibly only) speaker on behalf of the opposition, and the opposition will be supporting the bill quite enthusiastically. Commercial forestry, by its nature, involves long-term investment commitment. Whilst the new blue gum hardwood industry, which has been established more recently in South Australia, is predicated on a 10 to 12-year growth cycle, the established pinus softwood industry uses rotational periods of the order of at least 27 and sometimes up to 40 years. In government, the Liberal Party recognised that individuals and corporate entities involved in these sorts of activities may well wish to change their investment strategies over such time frames. Consequently, the Forest Property Act 2000 was enacted to enable landholders who had established commercial forestry plantations to separate the ownership of the tree crop or harvest rights from the land ownership.

This created a separate title, in effect, which allowed the landowner to capitalise the value of the growing crop prior to its maturity by selling to a second party the forest vegetation and the right to harvest that vegetation at maturity. The act also recognised that the growing tree crop may well have value attached to its carbon sequestration and assigned any such value to the owner of the forest vegetation as opposed to the landowner. At the time, there was an expectation that Australia would be an active participant in world trade in carbon credits, a system of carbon trading envisaged under the Kyoto Protocol.

The bill presented to the house establishes three separate property rights as opposed to the two established under the Forest Property Act 2000: the ownership of the land on which the forest is grown; the forest vegetation, which will be harvested and may be owned separately from the land; and the carbon sequestered by the tree crop and which may be traded separately from the land and/or the forest vegetation as a carbon credit offset. The bill amends the aforementioned Forestry Property Act in several ways. Clause 4, Interpretation, inserts a new definition of 'carbon right' and clause 5 inserts a new section 3A that defines the carbon right and acknowledges its association with the forest vegetation but provides for its separation therefrom. Subclause (3) is in some ways retrospective in that it recognises that carbon sequestration already absorbed may form a carbon right as well as future absorptions.

Under Kyoto it is probably envisaged that that would go back to carbon sequestered ever since 1990. Clause 6 of the bill substitutes sections 5 to 15 of the act, which prescribe the forestry agreements, their registration, transferability, etc., by including the new property right of carbon rights in addition to the pre-existing forestry vegetation right and land right. The opposition believes that this is simply the next logical step from the bill that was passed by the house in 2000. Indeed, I believe some things have changed to make this bill necessary today. Under the 2000 bill, if a landowner chooses to sell the forest vegetation as a separate right, the carbon right automatically flows with it. This bill will allow the owner, which more than likely in the first instance will be the landowner who has established the forest, to on-sell the vegetative forest and retain the carbon right or, indeed, on-sell that carbon right to a third party.

It will also allow the purchaser of the vegetation right now to separate the carbon right associated with that forest and on-sell that. The bill protects all the parties involved here, for obvious reasons, particularly of access and ongoing management of the forest on the land on which it grows, by ensuring that, if there are any further transactions with regard to any of the three rights involved—the land, the vegetative forest or the carbon—the other parties also have to be involved and aware of any further on-selling, transfer or trade. Since this bill has been introduced, I have contacted a number of forestry associations and forest growers, and I was interested in some of the responses I got back.

I know that the government has been working with one particular forest grower, Timbercorp, with this matter, but some of the other forest growers and associations seemed not to be aware that we were debating this bill. I think the government probably has failed to consult as widely as it might have done. I am not sure whether it thought that everyone would be in agreement. The reality is that the people to whom I have spoken, at least—including Australian Forest Growers Association, Timber Communities Australia, the National Association of Forest Industries and Tree Farmers Australia—all concur with what the bill is trying to establish. Indeed, I have contacted the other major forest grower in South Australia in the softwood industry (the other one being Forestry SA), Auspine, which also concurs with the thrust of the bill. In fact, some of them were quite enthusiastic.

I would like to read into *Hansard* a couple of comments made in the Australian Forest Growers Policy Statement No. 14, which relates to carbon trading, because it is quite revealing. I think it would be worthwhile for members of the house to be aware of some of these facts—one of which, in particular, surprised even me. One of the things that people often ask when they try to get their mind around carbon sequestration is: what happens when the tree matures and is harvested? Obviously, depending upon what happens to the harvested tree—the way in which it is treated—the carbon locked in it may stay locked away for a long time or it may be released quite rapidly. The document from the Australian Forest Growers Policy Statement states:

> . . . the majority of the forest carbon store is maintained in manufactured wood products, especially long-life wood products like structural lumber and appearance joinery. Wood products including paper maintain a longer than previously thought carbon sequestration life, even when discarded into landfill.

It quotes a report from 2006 that reveals that only 3.5 per cent of the carbon from wood products returns to the atmosphere when discarded as landfill up to 46 years previously. So, even paper products that are disposed of by way of landfill lock away that carbon (in this case, 96.5 per cent of it) for 46 years after being put into landfill, according to this study. That is a very interesting statistic, and I found it quite surprising, because I have always wondered how we account for the carbon that has been locked away after we have harvested a tree, particularly when it is turned into paper. My interest, of course, is due to the fact that there is a pulp mill and a paper mill (and, hopefully, in the future, another pulp mill) in my electorate, which are taking feed stock from the forests across the South-East.

Of course, as the shadow minister for forestry, I am very supportive of the timber industry. There is a large timber industry in my electorate and, indeed, in the minister's electorate. It is one of the greenest—if not the greenest—industries in the world. The timber industry is also very keen to take another step with respect to environmental issues by developing biomass power generation plants. A number of discussions have occurred in the South-East to work out a way in which to utilise what is referred to as the slash, or the

waste material, when the forests are clear-felled to put into power generation to create green power.

However, the reality is that, on its own, carbon sequestration would not be a viable reason economically to plant a forest. Being able to sell a carbon credit adds a little more to the profitability of the forestry industry, which is great for the industry and, of course, the environment. However, the economic studies that have been carried out so far indicate that, as a stand-alone enterprise, carbon sequestration probably would not be viable, notwithstanding the fact that it is expected that people who grow plants in a non-commercial fashion—that is, on farms for wind breaks or for other environmental purposes—could, indeed, join the carbon trading system once it becomes firmly established.

The opposition (and, I am sure, the government) expects that, once this bill is passed through the parliament, it will help to establish a carbon trading system here in this country. I am told that some carbon trading of a sort is being carried out in New South Wales as we speak. Its power generators are obliged to purchase a permit if their greenhouse gas emissions exceed a certain cap or to offset that cap by buying carbon credits, which they do at the moment. I am told that, currently, the price is about $10 a tonne for a carbon credit, which is about half, or even less than half, of what carbon credits are worth in the European trade. So, we have a way to go. It is also interesting to note that the federal government is moving towards establishing a carbon trading system in this country. There are some questions that I wish to put to the minister during the committee stage, but I reiterate that the opposition supports the bill.

Mr HANNA (Mitchell): I will speak briefly in support of the bill. This bill, together with the proposed Climate Change and Greenhouse Emissions Reduction Bill, foreshadows the establishment of voluntary greenhouse emissions trading, and that is to be thoroughly commended.

The government is doing a good thing in preparing the groundwork for carbon emissions trading. For the first time, the Forest Property Act 2000 identified the right to the commercial exploitation of the carbon absorption capacity of the relevant forest vegetation and assigned that right to the forest vegetation owner. The bill needs some tidying up effectively to separate clearly the entities and rights involved in such trading processes. In other words, there is the land, the vegetation and the carbon emissions. Each of these three stages in the process—

The Hon. R.J. McEwen: It's a sequestration; it is not emissions. It is the opposite.

Mr HANNA: Sequestrations, rather. The minister correctly points out that it is a matter of the carbon coming in, not the carbon going out, about which we are talking. The carbon is stored in the vegetation. The legislation then appropriately separates those three parts of the process. The legislation cannot be discussed without reference to the broader context of carbon rights. It is pleasing to see that, around the world, there is increasing interest in carbon rights trading; and, of course, it is very advanced in other parts of the world, particularly in Europe. It is shameful that the federal Liberal government has resisted signing the Kyoto Protocol.

I note that, with the increasing awareness in the Australian community about the dangers of climate change and the contribution toward global warming arising from carbon emissions, pressure is being felt by the federal Liberal government on this issue. Recently, therefore, the Prime Minister suggested that he might be willing to sign off on the Kyoto Protocol if all other countries did. The Prime Minister made that half-hearted offer knowing that all countries in the world will not readily sign off on the Kyoto Protocol; so, in a sense, it is a delaying tactic, a stalling tactic.

We know that the Prime Minister will not sign off on the Kyoto Protocol without first getting a nod from the US. However, one part of our existence on earth we cannot ignore is the threat from global warming. Australia has the opportunity to take part in the solution rather than letting things go on as they are. That is the broader context. It is important for Australia to sign the Kyoto Protocol; and I believe that, even if there is not a change in government at the federal level, eventually there will be sufficient political pressure building up around the federal Liberal government for that to happen.

For the moment, South Australia is doing its bit by properly delineating those segments of the process as I have outlined concerning the land, the vegetation and the carbon. Perhaps that is all we can do other than to create a more or less voluntary scheme which, I understand, will be presented in further legislation of this government in the near future.

The Hon. R.J. McEWEN (Minister for Forests): I thank the members for MacKillop and Mitchell for their comments and support. The member for MacKillop does not give enough credit to the then forestry minister in relation to the Forest Property Act 2000; and, in not doing so, he misses the point that there was a very good reason why I did not consult the industry further on this matter. What we are quietly doing is fixing up a botched job. What we are now doing is getting to where we thought we were in 2000.

It was only when Treecorp (a company that owned the land, the trees and the carbon) tested it and wanted to do something that we had not envisaged (which was to keep the trees and dispose of the land and the carbon) that we got some advice from that history mob called the Crown Solicitor who told us that, because the law was potentially ambiguous, we needed to tidy it up. In effect what we are doing today is tidying up a couple of other things at the same time. We are enhancing the legislation, but certainly we are not going any further today than what we thought we were all doing in this house back in 2000.

Of course, as luck would have it, it has been tested only once by Timbercorp, in 2004, and now 11 000 hectares is parked in South Australia while we just tidy this up. Timbercorp in particular will be pleased now that it can go ahead with a transaction in relation to the land and the carbon while, obviously, it maintains its trees. We wanted to tidy up a botched job. I did not need to go back to the industry. The industry always assumed that we had it right in 2000. I can now tell the industry that we have got it right. What it thought it had in 2000 it has now got.

Equally, the member for Mitchell makes the point that this is not about a trading scheme, but it is a prerequisite to a trading scheme. Unless you have quite clear separation between those three entities, obviously, you would not be able to participate in a trading scheme, whether it was a bilateral trading scheme, whether it was part of a national or international trading scheme or whatever. Once the Crown Solicitor pointed out that there was a potential ambiguity in (I think it was) section 7(1)(b) of the original act, my policy unit set about tidying it up, and today we have now completed that business in this house.

Bill read a second time.

In committee.

Clauses 1 to 3 passed.

Clause 4.

Mr WILLIAMS: Minister, I had not envisaged when this situation might occur, but it is about the edible fruits, and you might give the house the benefit of some greater insight. You are deleting the words 'but does not include edible fruit' in the definition of forest vegetation, which means, on my reading of it, that if you transfer the forest vegetation you do not necessarily transfer any edible fruits attached to the vegetation. That does not specify who owns the edible fruits. That may be specified in the transfer agreement, but unless it is specified in that transfer agreement, is there no default position?

The Hon. R.J. McEWEN: With a lack of advisers here on this particular point I may find myself correcting this between the houses. My understanding is that obviously the owner of the trees will always own the product of those trees, and it could not be separated in any instance, other than through some commercial transaction. There is not a carbon transaction between the owner of the trees and the owner of the product of the trees, so you could not somehow or other create another property right which was the product of the tree. When the tree is harvested it yields no more. That is where the sequestration is; it is actually being stored in the tree, not in the annual product of the tree.

Mr WILLIAMS: I think that I might take the minister's offer to get a more fulsome answer. I draw his attention to—and we are not there yet—clause 6, which amends section 5 of the act, and specifically section 5(4). The new provision will state that a property (vegetation) agreement may reserve to the transferor the right to take edible fruits from the forest vegetation. It is obvious to me that the agreement may assign the ownership to either the owner of the land (being the transferee) or the owner of the forest vegetation (being the transferor). Notwithstanding that the edible fruits may be reserved to either the transferor or the transferee, the question is: if it is not specified in there, is there no default position?

The Hon. R.J. McEWEN: I see the question as being beyond the scope of the bill, because what we are talking about here is that commodity called carbon which is actually being sequestered. The situation that the shadow minister has raised is about quite a different property right, which I assume in common law could be assigned to anybody. Who owns the fruit would be an agreement, but you would not expect that to be dealt with in here. What we are trying to clarify here is the carbon bit of it. I cannot see a situation whereby somebody is going to maintain the right in the carbon that belongs to the fruit, because I cannot see that there is any carbon there.

I understand what the honourable member is asking for but I think it is totally beyond the scope of this bill. I might sell my trees, which are storing carbon, but I might want to keep access to the fruit of those trees—an entirely different transaction altogether, beyond the scope of the bill.

Mr WILLIAMS: Notwithstanding the minister's explanation, the bill at clause 4 amends section 3, and at subclause (2) specifically deletes the words 'but does not include edible fruit'. I am seeking an explanation of what that is all about. I am quite happy for the minister to provide me with an explanation at a later date.

The Hon. R.J. McEWEN: We are on the right track and it will be explained in detail by the people who draft these things and we will put it back in common English between the houses, but you are right, it can be transferred.

Clause passed.

Clause 5.

Mr WILLIAMS: Under new section 3A(2), a carbon right 'attaches to the forest vegetation to which it relates, and ownership of the right passes with ownership of the forest vegetation unless ownership of the right is separated from ownership of the forest vegetation under a forest property agreement'. I am taking it that the default situation here is as the current act provides, that unless there is an agreement the carbon stays with the forest vegetation.

Clause passed.

Clause 6.

Mr WILLIAMS: Clause 6 is an extensive clause and it amends sections 5 to 15 in the current act. The clause sets out the conditions or the process of setting up agreements to transfer the property, that either of or all of the property rights will be established by the bill. It also establishes a system to register these agreements. New section 7(1) provides that 'a forest property agreement may be registered'. My question is: why is that 'may'; why is it not 'must' be registered? Why are we leaving this so that it may or may not be registered, which I think may in fact cause confusion in the industry?

The Hon. R.J. McEWEN: There is no reason why you would make it compulsory that it be registered. Parties may choose that they do not want it to be registered. It depends on the nature of the transaction and how you want that protected; you would not actually mandate that it must be registered. Many agreements can be dealt with in other ways under the common law. There is no reason to mandate that under all circumstances. Why would we want to make it compulsory to register an agreement? As I thought, it leaves the option open to those involved in the transaction whether they want to formally register that or capture it in another way. Under common law, a deal is a deal and obviously, at some stage somebody may have to make a judgment on the legitimacy of it.

Mr WILLIAMS: I suspect this will be my last question to the minister now that he has help. The question relates to the registration of these agreements and what stamp duty implication that may create.

The Hon. R.J. McEWEN: That is a question you would ask when you have a trading scheme because, obviously, in a trading scheme, depending upon what that trading scheme is and who is administering it, you may or may not incur stamp duty. So, that is a question about something that could not happen until it is clearly identified in law that these properties can be separate and discrete.

Mr WILLIAMS: It is my understanding that that is exactly what the bill is doing. It is actually creating these separate property rights so that they may be traded and, if they are traded, they will obviously have a value and the agreement or the contract trading them is then a registered document. I have assumed—and maybe I have missed something—that, as such, it would attract stamp duty. I want to get some answers on how that will be assessed and on what basis it will be assessed or, indeed, if I have missed the boat completely.

The Hon. R.J. McEWEN: He is in the boat but he does not have too many paddles. The land part of it is dealt with. We know who owns land. We do not have a trading scheme at the moment. The member for Mitchell made the point that he hopes that at some stage the Australian government signs up to an international agreement in terms of Kyoto, or whatever, so there would be an international trading framework. This would allow South Australians to participate if such a framework had a legal entity of its own and, as a

consequence of that, you would ask questions about stamp duty. This is actually separating out the three bits of property. It does not go to the next step, at a state level, setting up a state trading scheme. Trades could occur in all sorts of ways, as they do now. You might have a property which you trade with me under a bilateral agreement. This is not dealing with that issue.

Mr WILLIAMS: I still cannot understand how—if I am a landowner with a forest growing on it—I can trade a piece of property to a second party, that piece of property being a property established under this bill, namely, a standing forest, via a contract. The person concerned takes ownership of the standing forest, I take ownership of some of his cash and, in the process, we also establish in this bill that we register that contract to protect both our interests into the future, so that, if at some time in the future he comes back to harvest his trees and half of them are gone, he can sue me and prove that he has paid. I fail to see how we can go through that process whereby we register that contract that we have established resulting from an agreement to transfer a property, and there is no stamp duty levied on it.

Notwithstanding that the minister says that this is only step one, once this bill is enacted there is no further work for the government to do to set up a trading scheme. The minister said earlier during the second reading debate that already a company is wanting to do one of these trades. I can only assume that they will want to register the agreement. Money will be exchanged and an agreement or a contract will be registered, and I have just assumed that RevenueSA will want their pound of flesh.

The Hon. R.J. McEWEN: Between the houses, I will get a further answer to this for the shadow minister. It is beyond the scope of this bill and it was not dealt with in the original bill, which we are now tidying up. I understand where he is coming from in terms of a trading scheme and, in the absence of a trading scheme, how you register these agreements, whether it is under the common law and how the framework is dealt with. I think that needs to be explained and, as a consequence of that, somebody may foreshadow state legislation. I cannot see how you would want to do it at that level. This is national or international and we need to be able to participate in a trading framework at some stage. All we are doing at this stage is creating these three different properties which, of course, are linked. There are conditions on one bit that relate to others; you cannot trade them totally separately from each other. That is the first step. I understand that but, again, what he is asking is beyond the scope of this bill.

The CHAIR: Member for MacKillop, I cannot keep counting on the same finger forever. Are you satisfied or would it be helpful for me to give you time for a five minute briefing?

Mr WILLIAMS: I am expecting the minister will come back with some further information. We can move on.

Clause passed.

Title passed.

Bill reported without amendment.

Bill read a third time and passed.

EVIDENCE (USE OF AUDIO AND AUDIO VISUAL LINKS) AMENDMENT BILL

Consideration in committee of the Legislative Council's amendment.

(Continued from 28 September. Page 1108.)

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

That the House of Assembly disagree with amendment No. 1 made by the Legislative Council.

The intention of the bill is to promote the use of audio and audiovisual links to make our criminal courts work more efficiently. I do not think there is a government in the history of the state that has done more to promote the interests of victims of crime. One of the reasons we want to encourage the use of audiovisual links is to make it easier for vulnerable witnesses to go to court and to give their evidence from a location remote from the courtroom. As an example, in the case of a child who is allegedly the victim of sex abuse, she does not have to give her evidence in court under the gaze of the accused.

If things pan out well, one use of audio and audiovisual links that will make our courts system and our prison system more efficient is to have accused, who have been remanded in custody, appear at directions hearings, further remand hearings or interlocutory hearings in our courts, on a visual link from prison, so we do not have to run a vehicle from the prison to the courts, and the cost of that. As things stand, the idea of having an audiovisual link is not immediately going to make great savings because our advice is that, although we could have many prisoners appearing in court from prison via audiovisual link, there are some prisoners who would have to go to court and nevertheless the van has to run from the prison to court. All that would happen as a result of this is that the van would not have as many prisoners in it. However, we hope, with the use of this technology, one day to get to the point where the prison van does not have to run from prison to the courts. What we are trying to do is to establish a proper legislative basis for that audiovisual link.

Now, to our surprise, a Liberal member of the other place wanted to introduce the right for a victim or, I suppose, in the case of homicide, a next of kin of the victim, to be able to veto the use of the audiovisual link by the prisoner.

Mrs Redmond interjecting:

The Hon. M.J. ATKINSON: No, I assure the member for Heysen it was her party colleague, the Hon. Stephen Wade, who proposed this amendment.

Mrs Redmond interjecting:

The Hon. M.J. ATKINSON: Well, my understanding (and I understand this from reading the Liberal Party website; I am an avid, daily reader of the Liberal Party website), is that the Hon. Stephen Wade proposes that a victim, or a next of kin of a victim in the case of homicide or total and permanent disablement, be in a position to veto the use of the audiovisual link from prison to the courts for the pre-trial hearings.

I could understand that a member of parliament might argue that the victim should have a right of veto over an accused person giving evidence in the trial or participating in the trial from prison via audiovisual link. I could understand that. What I do not understand about the Hon. Stephen Wade's amendment is that it has the effect of allowing a victim or next of kin of the victim to prohibit—to veto—the appearance of the prisoner at pre-trial hearings from prison by audiovisual link.

The member for Heysen will know from long experience that I am not a minister who stands on my dignity about opposition amendments, and if the opposition comes up with a good amendment or a good idea then I will incorporate it in the bill. I have taken the Hon. Stephen Wade's amendment and I have tried to refashion it to make sense so that I can reach common ground with the Liberal opposition if we say

that in the trial—the main game—the victim would have a right of veto over the accused appearing by audiovisual link from prison. But I cannot agree to the victim having a right of veto over the prisoner appearing by audiovisual link for pre-trial hearings, because I do not see that as any infringement of victims' proper rights.

I have circulated an amendment standing in my name, and I hope that the Liberal opposition will see it as a sincere attempt to give effect to what is good in the Hon. Mr Wade's amendment in another place.

Mrs REDMOND: I think that the Attorney misunderstands the effect of the amendment as proposed by Mr Wade in the other place. The way the Attorney was talking about the proposal to have a right of veto made me think that he was talking about the proposals put up by the Hon. Nick Xenophon, because that was what he wanted—to give the victims a right of veto. The proposal moved by the Hon. Stephen Wade was accepted by the other place. The bill already provides for every party to submit an objection to the use of audiovisual links. The court hears those submissions, considers them and makes a determination. Nobody has a right of veto. What happens under the proposal moved by the Hon. Stephen Wade is simply that the victim is given the right to say to the prosecuting authority, 'I want you to object to this.' Whilst it requires the prosecuting authority to submit that objection, that does not give the right of veto. The court still has the decision as to whether or not it will accept any of the submissions made on the use of audio or audiovisual links. The court makes the determination in light of what has been put to it.

It seems to me that what was put up and agreed to in the other place reflects what the government should be doing. I am trying quickly to get a handle on the minister's proposal and how it differs. Essentially, all the Wade amendment, if I can call it that, did was say, 'We will provide for victim involvement simply by giving the victim the opportunity to say to the prosecutor, "I want you to object to this."'

The Hon. M.J. Atkinson: And the prosecutor must object. That is in Mr Wade's—

Mrs REDMOND: Yes, but that does not give them the right of veto, because the court has to make the decision, not the prosecutor. The court makes the decision based on all that is before it. I accept that, in most cases for which this will become relevant at the moment, it will simply be a situation where there is some sort of minor interlocutory process. It would be unlikely that the victim would object in any event. Even if the prosecutor is obliged to put up that objection, the court will reach its own decision as to whether or not it is a reasonable objection in the circumstances. Therefore, all it does is give the victim that voice.

Any party to the proceeding can put up any sort of objection it wants, and it may or may not be valid; the court will determine that. Because the victim is not a party, because the state prosecutes the criminal offence, the victim at this stage has no right to do that. All this amendment seeks to do is say to the prosecutor, 'As the victim, I want you to object.' The court then makes the decision as to whether or not that objection should be upheld or whether or not the audio or audiovisual link should be used instead of bringing the person to court.

I do not see that in reality there is any difference in what I read of the amendment proposed by the Attorney. I ask whether the Attorney can explain what the difference is. My reading of what was proposed by Mr Wade in the other place is that it is really of the same effect, namely, that all it does is say that the prosecuting authority objects on behalf of the victim. I do not think that there is any reason why the prosecuting authority could not indicate to the court that that is exactly what is it doing—that, on behalf of the victim, they wish to indicate to the court that the victim wants to object to such use. Why that differs from what the Attorney says is proper and reasonable is really beyond me. I ask that the Attorney explain the difference between the amendment known as amendment No. 1 (Wade 1) and the amendment he wishes to move.

The Hon. M.J. ATKINSON: I am happy to help the member for Heysen. The difference between what I propose and what the Hon. Stephen Wade proposes turns on proposed subsection (4), which provides:

> If—
>
> (a) a defendant is in custody prior to trial and is to be dealt with by a court to which provisions of this subsection are extended by regulation; and
>
> (b) facilities exist for dealing with the proceedings by audio visual link,
>
> the court should, subject to subsection (5) and relevant rules of court, deal with the proceedings by audio visual link and without requiring the personal attendance of the defendant.

The member for Heysen is right to say that the Liberal Party is not advocating a veto by the victim. What it is advocating, however, is the victim, or in some cases the victim's family (say, in the case of a child), to be in a position to require the prosecutor to ask the court to stop a prisoner appearing at a pre-trial hearing by audiovisual link from prison. We think that that is wrong because we believe that there are no legitimate grounds on which a victim or a victim's family could object to a prisoner appearing in a pre-trial hearing from prison by audiovisual link. On the contrary, if the victim or the victim's family were present in court, I would have thought they would be somewhat reassured that the accused person is not physically present, that they are not under his gaze, and that he is far away in a room in prison at the other end of a video link.

So, our view is that there may be something in the Hon. Stephen Wade's suggestion that the victim or the victim's family can object to the accused person appearing by video link in the trial, and we accept that in the amendment that I propose. Where we think the Liberal Party is wrong is where it proposes that the victim or the victim's family should be able to require the prosecutor to ask for permission of the court to veto the appearance by video link of the prisoner in a pre-trial hearing. That is where we disagree.

Prosecutors, rightly, have a great deal of independent discretion in our criminal justice system. I think it is important that the prosecutor be able to act independently in the interests of justice and not always be compelled to do what the victim or the victim's family wants. By all means, there should be a right of consultation and the prosecutor should be required to explain to the victim or the victim's family what he or she is doing, but the Liberal Party's suggestion that, on the question of appearance by video link from prison on a pre-trial hearing, the victim or the victim's family should be able to compel a prosecutor to seek to veto that efficiency I think is very wrong, indeed. So, I draw the member for Heysen's attention to my compromise amendment which would in proposed subsection (7) insert the words, 'other than proceedings to which subsection (4) applies', and there we are talking about pre-trial hearings.

Mrs REDMOND: The minister referred to the concept that there could be no legitimate grounds on which a victim

or the family members of a victim could object to the accused appearing via video link at a pre-trial hearing. While I cannot think of any circumstances where that might arise and I agree that it is unlikely, it still seems to me that it is possible that there could be, beyond our contemplation, some circumstances where a victim might have a legitimate reason and, if the reason was not legitimate, the court would so decide.

The Attorney keeps referring to the prosecutor's having a right of veto but, of course, under neither of the proposals does the prosecutor have any right of veto. The prosecutor can put his submission, and no doubt the defence counsel would put their submission to the contrary, and the court, as it does all the time, would listen to the submissions and decide what is the most reasonable and appropriate course having regard to the victim, counsel's arguments, and every other question before it.

So, I really do not think there is a problem with the amendment as proposed by the Hon. Stephen Wade. Indeed, I think it is leading the government to the water it should have been drinking from in the first place, because failure to provide for victim involvement in this process actually demonstrates a lack of consistency and sincerity by the government in terms of the way it talks about recognising victims and giving them some rights but then completely leaves them out of the bill until it is put on the agenda by the members of the other house.

The Hon. M.J. ATKINSON: Madam Chair, for someone who thinks that Paul Habib Nemer should not have spent a day in gaol, as does the member for Heysen, to talk about victims' rights is a bit rich, but I will let that go. We have tried to deal constructively with a Liberal Party amendment in the other place. We have tried to make it sensible. I urge the member for Heysen to accept our gesture of goodwill and get on with the bill instead of quibbling about a victim's proposed right to stop, via a prosecutor or a court, a prisoner appearing by video link in a pre-trial conference.

I will bet the member for Heysen cannot think of any possible example where a victim or a victim's family could legitimately seek to oppose the appearance of the prisoner by video link pre-trial. If the member for Heysen cannot think of any ground, then I suggest she not persist with the Hon. Stephen Wade's amendment. We have now refined it. The government has tried to respond constructively to an idea coming from the Liberal opposition. I hope she will accept our gesture and support the amendment that I have laid before the committee.

Motion carried.

The Hon. M.J. ATKINSON: I move that the following alternative amendment be made in lieu thereof.

Clause 4, page 4, after line 7—
Insert:

(7) In proceedings relating to an offence (other than proceedings to which subsection (4) applies), the prosecuting authority must object to the use by the court of an audio visual link or an audio link if requested to do so by—
(a) an alleged victim of the offence; or
(b) if an alleged victim of the offence—
(i) is a child—a parent or guardian of the alleged victim; or
(ii) is deceased or unable to represent himself or herself because of some physical or medical condition—a member of the alleged victim's immediate family.

(8) In subsection (7)—
immediate family of an alleged victim means—
(a) a spouse (including a putative spouse); or
(b) a parent or guardian; or
(c) a grandparent; or
(d) an adult child; or
(e) an adult grandchild; or
(f) a brother or sister;
victim, in relation to an offence, means—
(a) a person who suffers physical or mental injury, damage or loss as a result of the commission of the offence;
(b) a person who suffers psychological injury as a result of being directly involved in the circumstances of the offence or in operations in the immediate aftermath of the offence to deal with its consequences.

Mrs REDMOND: At this stage, we oppose that amendment.

Motion carried.

STATUTES AMENDMENT (JUSTICE PORTFOLIO) BILL

(Second reading debate adjourned on 9 November. Page 1110.)

Bill read a second time.

In committee.

Clauses 1 to 7 passed.

New clauses 7A and 7B.

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

Page 6, after line 16—
Drafting note—
These clauses are additional amendments to the *Civil Liability Act 1936*.

7A—Amendment of section 28—Liability to parents of person wrongfully killed
Section 28(1)(b)—delete 'three thousand dollars' and substitute:
$10 000

7B—Amendment of section 29—Liability to surviving spouse of person wrongfully killed
Section 29(1)(b)—delete 'four thousand two hundred dollars' and substitute:
$10 000

At common law, the family of a person whose death was caused by the wrongful act of another person was unable to bring an action against the wrongdoer for damages. Section 23 of the Civil Liability Act was introduced to overcome this problem. The action created by section 23 is, however, restricted to a claim for financial loss. It does not give family members an entitlement to damages for the grief or sorrow they may have suffered because of the death of the deceased. Sections 28 and 29 of the Civil Liability Act were introduced to provide for the payment of solatium; that is, compensation for grief. Solatium is only available to the parents or spouse, or both, of the deceased person, and it is limited to a maximum of $3 000 for parents or $4 200 for spouses. These figures have not changed for more than 20 years.

Mrs Redmond interjecting:

The Hon. M.J. ATKINSON: I think the member for Heysen is right; it is more like 30 years. I think it last changed when Gough Whitlam last won an election. The Hon. Nick Xenophon has—

Mr Pengilly interjecting:

The Hon. M.J. ATKINSON: On the contrary, member for Finniss, Gough Whitlam won two elections. The Hon. Nick Xenophon has lobbied me about this amount of money: he thinks it should be much higher. I believe that the grief payment available to the relatives of people killed by a wrongful act is too low. The amendment increases the maximum amount of solatium payable to both parents and spouses to $10 000.

Mrs REDMOND: I indicate that the opposition will support this amendment. I believe I am on record as saying that I think that the $3 000 payment is so small as to be almost adding insult to injury. However, it is true that this is not meant to be compensation, in any real sense: it is really a token payment. The nature of solatium is that it is a token acknowledgment of the loss. I acted for a number of the people involved in the dreadful balloon accident above Alice Springs many years ago. Most of the claimants involved in that matter received virtually nothing, because the people who could afford to go on balloon trips were either young people who had no dependants or older people who had their dependants off their hands. Everyone died, so of course their pain and suffering died with them, and there were no ongoing medical or other expenses. The claims for such a tragic accident, for the most part, were limited to some funeral expenses and a very nominal amount by way of solatium. I understand that, in other states, often there are no solatium payments at all.

I am pleased to say that I agree with the government. I think that the $10 000 figure suggested is probably a reasonable compromise between the inadequacy of the current payments (which have not been raised for, I think, over 30 years) and the proposal by the Hon. Nick Xenophon, because my inquiries of the Motor Accident Commission in relation to that proposal revealed that it was quite concerned that it would lead to significant blow-outs in costs and, ultimately, we all pay those costs through our motor vehicle insurance. I indicate that the opposition will support this proposal.

Mr HANNA: I would like to speak in support of the Attorney's amendment. I also have dealt with a number of families where there has been a death caused by the wrongful act of another. It has been expressed to me many times over that the amount of solatium allowed to be awarded by statute is an insult, as people are grieving about the loss of a loved one. It is high time that the amounts were increased, and I commend the government for taking action. I commend the Hon. Nick Xenophon for agitating this point.

New clauses inserted.

Clause 8.

Mr HANNA: With respect to the Civil Liability Act, has the Attorney received any submissions in relation to the case of Barker and will he say whether any injustice is caused by the ability to separate defendants in actions of tort?

The Hon. M.J. ATKINSON: I do not think I am familiar with the case of Barker. Can the member for Mitchell give me more information, so as to jog my memory?

Mr HANNA: I will take it up with the Attorney after this debate.

Clause passed.

Clauses 9 to 19 passed.

New part 13A.

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

Page 8, after line 14—Insert new Part as follows:

Part 13A—Amendment of Fire and Emergency Services Act 2005

19A—Amendment of section 3—Interpretation

Section 3(1)—after the definition of industrial agreement insert:

Industrial Relations Commission means the Industrial Relations Commission of South Australia;

19B—Amendment of section 29—Other officers and firefighters

(1) Section 29(2)(c)—delete 'District Court' and substitute:

Industrial Relations Commission

(2) Section 29(2)(d)—delete 'District Court' and substitute:

Industrial Relations Commission

(3) Section 29(2)(e)—delete 'District Court' wherever occurring and substitute in each case:

Industrial Relations Commission

19C—Amendment of Schedule 1—Appointment and selection of assessors for appeals under Part 3

(1) Schedule 1, clause 1—delete 'with the District Court as assessors in any relevant proceedings under Part 3' and substitute:

as assessors in an appeal under Part 3 to the District Court or the Industrial Relations Commission

(2) Schedule 1, clause 4—delete 'Subject to clause 5, a judge of the District Court must select' and substitute:

Subject to clause 5, in any proceedings where the District Court, or the Industrial Relations Commission, is to sit with assessors, the judicial officer presiding at the proceedings must select

(3) Schedule 1, clause 4—delete ', to sit with the District Court in any proceedings where the court is to sit with assessors'

(4) Schedule 1, clause 5—delete 'before the District Court'

(5) Schedule 1, clause 6—after 'District Court' insert:

or the Industrial Relations Commission (as the case requires)

19D—Transitional provision

An amendment made by this act to the Fire and Emergency Services Act 2005 applies only in relation to proceedings commenced after the commencement of this section.

Section 29 of the Fire and Emergency Services Act 2005 provides that appointments to the Metropolitan Fire Service are to be notified to all officers of equal or lower rank and that any one or more of them can appeal to the District Court. I think that the most appropriate forum for the resolution of these appeals is the Industrial Relations Commission. The appeals really are of an industrial nature, that is, they are about deciding whether the nominee (or any of the appellants) is the best candidate for the job. Amendment No. 2 will ensure that appeals under section 29(2) of the Fire and Emergency Services Act 2005 will be heard by the Industrial Relations Commission.

Mrs REDMOND: I indicate that, at this stage, we oppose the insertion of this new part. Although I hear what the Attorney says, it seems to us that this very much looks like shopping to get a more favourable forum for appellants. Earlier in my legal career I appeared in a specifically established Public Service appeals tribunal that sat hearing nothing but appeals by public servants about appointments. It did not take up the Full Court time in either the Industrial Relations Court or the District Court. It does have the look of shopping for a forum which is more favourable to workers, shall we say, especially because in the last day I have had a long conversation with someone complaining about just that issue in that jurisdiction. We oppose this amendment.

The Hon. M.J. ATKINSON: The Liberal Party opposes for the sake of opposing. This amendment was requested by the Chief Judge, and it is an amendment requested for a compelling reason. Under the Hon. Trevor Griffin (the attorney of blessed memory) many small tribunals were shut down and their work put into the administrative and disciplinary division of the District Court. The question of whether a person appointed to a particular rank in the Metropolitan Fire Service is the right appointment or whether it should have been someone else is not the kind of job that a District Court judge normally does.

It is not a District Court style of adjudication. This is not to get some sort of advantage for the workers to put it in the Industrial Relations Commission. That seems to me to be a sleight by the member for Heysen on the Industrial Relations

Commission. It is just industrial relations type work. I heard a story about this jurisdiction when a District Court judge appeared with two assessors—one, if I am not mistaken, from the management of the Metropolitan Fire Service and an assessor from the United Firefighters Union. One day there was a District Court hearing.

The person who had been chosen for the job was knocked off, and the United Firefighters Union assessor went back to the Wakefield Street fire station and said, 'Beauty, fellas! We won, they lost.' Is that the kind of work the District Court should be doing in this state? I do not think so. I think that, by its nature, this is Industrial Relations Commission work, if this kind of appeal is to exist at all. I am disappointed that the member for Heysen cannot be more practical in response to a legitimate request by the Chief Judge of South Australia, who brings to this discussion years of experience.

Mrs REDMOND: In clauses 19A and 19B basically we have the deletion of references to 'District Court' in favour of 'Industrial Relations Commission', but in clause 19C it appears that there is some ongoing role for the District Court. Will the Attorney explain in what circumstances there is an ongoing role for the District Court, because I have not had a chance to look up what part 3 does with respect to the appeals?

The Hon. M.J. ATKINSON: The disciplinary division will continue to send disciplinary cases to the District Court.

New part inserted.

New clause 19E.

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

Page 8, after line 16—Insert new clause as follows:

19E—Amendment of section 2—Interpretation

Section 2, definition of *judicial office*, (d)—after 'the office of' insert:

Chief Magistrate.

The Judicial Administration Auxiliary Appointments and Powers Act 1988 provides that a judicial officer may hold concurrent appointments to two or more judicial offices. 'Judicial office' is defined to include the office of magistrate. It is unclear, however, whether the term 'judicial office' includes the office of Chief Magistrate. The Solicitor-General has suggested an amendment to the Judicial Administration Auxiliary Appointments and Powers Act 1988 to make it clear that the term 'judicial office' includes the office of Chief Magistrate. The proposed amendment will ensure that the Chief Magistrate can, like other magistrates, hold concurrent appointments.

Mrs REDMOND: I indicate that the opposition supports the amendment.

New clause inserted.

Clause 20.

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

Page 8—Delete line 32.

This is a proposed deletion from the clause in the bill. We are happy for judges from a range of superior courts in other states and territories to sit as auxiliary judges in our courts in South Australia. The reason we propose that is that every so often someone issues proceedings against a serving judicial officer. If my memory serves me correctly, someone issued proceedings against the Chief Justice last year, or the year before, not that anything came of it, but if those proceedings were to come on for trial the plaintiff would say, 'Well, all the South Australian judges are biased because they are comrades of the Chief Justice'—kind of *Today Tonight* reasoning.

So we included in the list of interstate judges who are eligible, High Court judges. That was a boo-boo because the High Court is the ultimate court of appeal in Australia and it would be inappropriate for a serving judge of that court to act as an auxiliary judge in this state because the case could go on appeal to his or her court. The amendment deletes the reference to the High Court from proposed section 3(2)(d)(i) of the Judicial Administration Auxiliary Powers and Appointments Act 1988.

Mrs REDMOND: That eminently sensible amendment is supported by the opposition.

Amendment carried; clause as amended passed.

New part 14A.

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

Page 9, after line 12—Insert:

Part 14A—Amendment of *Justices of the Peace Act 2005*

20A—Amendment of section 13—Roll of justices

Section 13(2)(b) and (c)—delete paragraphs (b) and (c) and substitute:

(b) either or both of—

(i) the town or suburb in which the justice resides;

(ii) the town or suburb in which the justice works;

(c) either or both of—

(i) the telephone number on which the justice can be contacted during business hours;

(ii) the telephone number on which the justice can be contacted after business hours;

Section 13 of the Justices of the Peace Act 2005 requires that I maintain a public roll of justices that records, amongst other things, both the home and work contact details of justices. There are some justices who assert that they should not have their after-hours phone number on the roll. They say they are justices only because their employer required them to be. Indeed, reading the member for Heysen's newsletter, I notice that one of her employees is a justice of the peace.

On the other hand, there are some justices who do not want their business hours phone number on the roll. They say that they are not permitted by their employers to take telephone calls of the type they would receive as justices of the peace during working hours. I think that it is unreasonable to expect justices of the peace to be available 24 hours a day. There are some times when justices have other things to do and quite reasonably cannot or do not want to be contacted about JP work. The amendment to section 13 of the Justices of the Peace Act 2005 will ensure that justices no longer have to provide both their home and work contact details; one or the other will do.

Mrs REDMOND: As I indicated in my interjections, indeed my own PA is one of the justices of the peace affected by this amendment. It is something that she wants and I am sure it is what a lot of other electorate staff want because it seems unreasonable that not only are they having to sign documents all day but they have their own private phone numbers on the list for after-hours contact as well. Again, it is a sensible amendment and we will support it.

New part inserted.

Clauses 21 to 23 passed.

New part 16A.

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

Page 9, after line 22—Insert new part as follows:

Part 16A—Amendment of *Magistrates Court Act 1991*

23A—Amendment of section 7A—Constitution of court

Section 7A(2)—delete subsection (2) and substitute:

(2) The court may—

(a) in its Petty Sessions Division be constituted of a special justice; and

(b) in any other case, be constituted of a special justice if there is no magistrate available to consti-

tute the court, but when constituted of a special justice, the court may not impose a sentence of imprisonment in criminal proceedings.

On 1 July 2006, the Justices of the Peace Act came into operation. The act provides for the Governor to appoint some justices of the peace as special justices. Special justices will exercise all the powers and functions of a justice of the peace and, in addition, some judicial and quasi-judicial functions. The act also creates the Petty Sessions Division of the Magistrates Court. It provides that the Petty Sessions Division has jurisdiction to hear minor traffic matters and review decisions of the registrar about arrangements for paying fines.

It was intended that the Chief Magistrate would be able to appoint special justices to preside over hearings in the Petty Sessions Division of the court. Section 7A of the Magistrates Court Act 1991, however, provides that the Magistrates Court may only be constituted of a special justice if there is no magistrate available. The amendment to section 7A of the Magistrates Court Act 1991 will enable the Petty Sessions Division of the court to be constituted of a special justice, even if a magistrate is available.

I should also add, Mr Acting Chairman, that, should you be relieved of your parliamentary duties any time soon, we would certainly value your doing the TAFE course and dispensing justice to people who speed, and other villains, at the new multimillion dollar Port Augusta courts development delivered by the Labor government at the request of Mr Justin Jarvis.

Mr HANNA: My question in relation to this new part is simply about the naming of the division. I understand that 'petty sessions' has a great historical traditional use, but is there not some plain English version that would make it easier for people to understand? They will think they are in an episode of *The Bill* with a name like that.

The Hon. M.J. ATKINSON: I have always found *The Bill* a tremendously informative drama in my deliberations on criminal justice. It does not come much plainer than 'petty sessions'.

Mrs REDMOND: I indicate that we probably will not have a problem with this, but when we had a briefing the other day, this particular provision did not raise a mention. So, whilst it seems to be reasonably sensible, I indicate that at this stage we will neither support nor oppose it.

New clause 23A agreed to.

New clause 23B.

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

23B—Amendment of section 9A—Petty Sessions Division
Section 9A—after paragraph (b) insert:
and
(c) to conduct a review of an enforcement order under section 14 of the Expiation of Offences Act 1996.

The Expiation of Offences Act 1996 provides in some circumstances for the registrar of the Magistrates Court to make an order for the enforcement of an expiation notice. A person liable to an enforcement order may, however, apply to the court for a review of the order within 30 days. The grounds for review are limited and straightforward. They include, for example, the fact that the applicant failed to receive a notice required by the Expiation of Offences Act 1996. The former Western Australian minister, John D'Orazio, might be grateful for a provision like this. The review process could therefore be dealt with by a special justice in the Petty Sessions Division of the Magistrates Court. The amendment to section 9A of the Magistrates Court Act 1991 extends the jurisdiction of the Petty Sessions Division to include the review of enforcement orders under the Expiation of Offences Act 1996.

New clause 23B agreed to; new part inserted.

Clauses 24 to 50 passed.

Clause 51.

Mr HANNA: My question is in relation to the Subordinate Legislation Act and the way it works in relation to regulations. My understanding is that about three-quarters of the regulations published are given the imprimatur by ministers saying that they are urgent and must come into force immediately. The intent of the legislation, as I understand it, is that the normal course should be that regulations would wait four months before commencement. Is this section being abused by ministers and should it be the subject of reform?

The Hon. M.J. ATKINSON: I think the short answer is yes, and what the Rann Labor government does in this area is no different from what the Brown and Olsen governments did. Section 10AA of the Acts Interpretation Act was introduced under the Bannon or Arnold governments, under pressure from the former member for Elizabeth and the former member for the federal division of Bonython, now my constituent and sub-branch secretary, Mr Martyn Evans. Martyn Evans had the government over a barrel at that time and introduced this section, as any spirited backbencher might do, to make governments more accountable.

All I can say is that when regulations come before me I am always looking for an opportunity not to put in a certificate. I look for regulations that can sit for four months, and I will sometimes write on the docket, 'Well, can't this go through what is supposed to be the normal procedure?' But so often regulations have to be rushed in to overcome a problem, an inconsistency, to make the law say what everyone thought it said before to overcome the effect of a judicial decision. I understand where the member for Mitchell is coming from and, indeed, a former member of the other place, the Hon. R.R. Roberts, used to say, 'Well, if you're going to put in these certificates 90 per cent or more of the time, why don't you just get rid of the section?' There is something to be said for that too. Meanwhile, we will muddle on as best we can.

Clause passed.

Clauses 52 to 60 passed.

Title passed.

Bill reported with amendments.

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

That the sitting of the house be extended beyond 6 p.m.

Motion carried.

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

That this bill be now read a third time.

Mr HANNA (Mitchell): During the course of the debate I made allusion to the case of Barker. So that the Attorney-General can consider the matter before it is dealt with in the upper house I make a few more comments to expand upon my point. Barker was a House of Lords decision dealing with, I think, a mesothelioma case. The understanding had been that where a sufferer had taken a case to court and could show that the disease arose from employment with a particular employer, among many, it would be sufficient to sheet home full liability to that particular employer, no matter that there

may have been other employers who gave exposure to the substances which in turn caused the mesothelioma. In Barker, as I understand it, the House of Lords suggested that one could separate the liability so that, if there were five potential employers at fault and only one was sued, perhaps only 20 per cent of the damages would be awarded to the sufferer. Our Civil Liability Act may mean that that cannot happen, but I invite the Attorney to examine that matter to ensure that sufferers from dust diseases would not be ripped off in terms of damages should there be more than one potential employer to whom they could have gone for their remedy.

Bill read a third time and passed.

CRIMINAL LAW CONSOLIDATION (DRINK SPIKING) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 26 September. Page 967.)

Mrs REDMOND (Heysen): I indicate that the opposition will be supporting the proposed amendment put by the Attorney-General in relation to this issue. I think that it is increasingly problematic for us to deal with drink spiking. An occasion was recently brought to my attention involving a young girl who was at a well-known hotel in the city—luckily, in the company a girlfriend. She is quite a responsible young woman and had not had a lot to drink, but she began to feel very strange after having had a very small amount. Luckily, because she was in the company of a girlfriend and was able to get a ride home, she arrived safely but was very ill. Her father contacted me because of the risk that had apparently been posed to his daughter, who was a young adult of perhaps 21 or 22 years of age. I have a daughter about to turn 21, and I know that I am concerned when she goes out lest anything happen to her.

We agree that there is really an issue about drink spiking in our community, and I guess the difficulty is how we best deal with it. On the one hand, it might be as little as someone at a fairly young person's party adding a bit of alcohol, or a bit more alcohol, to the fruit punch; on the other hand, it could be someone putting Rohypnol into a person's drink at a pub. I know that various programs and policies have been adopted overseas to try to address this issue. At one end of the scale, often no harm will result from the prank at a party but, at the other end, it can be clearly a precursor to very serious events—in particular, rape, which is, of course, not restricted to the rape of females. I recall reading in the press fairly recently about the rape of young men (or even not so young men) in similar situations, when their drink had apparently been spiked in licensed premises.

The amendment proposed appears quite straightforward. It makes it an offence to spike anyone's food or drink intending to cause, or being recklessly indifferent as to causing, impairment of consciousness without the consumer of the product being aware of the presence of whatever substance is added. Of course, whilst we have advice that 85 per cent of drink spiking is the adding of additional alcohol to drinks, this amendment includes that it can apply to food.

I am a little cautious about including food. The ministerial council that came up with the proposal, which I gather will be included nationally, did not recommend the inclusion of food. I gather that it is mostly aimed at the sort of person who might bake marijuana into cookies, muffins or something like that. However, I can envisage that there would be some difficulty in terms of substances added to food (which could come within the provisions of the clause) and potentially cause impairment, such as food poisoning, which this clause is not meant to capture. Equally, I have some concern about the maximum penalty of imprisonment for three years because, whilst it is clearly an appropriate penalty for someone who spikes someone's drink with ill intent, one hates to think of a 17 year old prankster at his mate's birthday party facing that level of penalty. Nevertheless, as the house and the Attorney, in particular, would be aware, I have great faith in the legal system being fairly sensible.

I indicate that I have filed an amendment, the terms of which essentially add a further provision with an even more onerous penalty. It seems to us that there is really little excuse for anyone taking into licensed premises any substance, such as Rohypnol, other prohibited drug, or a drug that could be used for drink spiking. Bearing in mind that Rohypnol can, of course, be a legitimately prescribed drug that someone might have for legitimate reasons, we intend to propose an amendment which adds a further offence and which provides that, if somewhat enters or remains on licensed premises while they have that sort of thing in their possession without a lawful excuse, it would be an offence and subject to an even more significant maximum penalty of imprisonment.

However, understanding that I had the amendment drafted only today and filed during the course of this afternoon, I withdraw it at the present time on the basis that, rather than putting the Attorney-General in the position of having to oppose an amendment, which indeed he will consider and which he may accept, we indicate our intention to move it in the other place. I withdraw the amendment from this house so that we can proceed with the bill as it appears at the moment. We will deal with it in the other place in the hope that the Attorney will recognise the very eminently sensible suggestion the opposition puts in that regard.

As I said, the opposition supports the bill with some cautionary comments about the potential for this legislation to be used unintentionally against someone who is really a prankster. Even if the person did not intend to do something dramatic, they could still be found guilty of the offence if they intended to cause, or were recklessly indifferent as to causing, impairment of the consciousness or bodily function of another. It does not define any level of impairment. So, if you simply give someone an upset tummy, technically, I imagine that could come within the definition of 'impairment of bodily function' and, clearly, it would be without the other's consent or knowledge. So, my only concern is that this be dealt with lightly at the end concerning the prankster, and throwing the full force of the law against the person for whom this is really intended, and that is a person who, with ill intent, approaches going into licensed premises and spiking someone's drink with purposes such as rape and so on in mind. So, the opposition supports the bill.

The Hon. M.J. ATKINSON (Attorney-General): I thank the member for Heysen for her contribution and also her forbearance in not requiring the government to say yea or nay to an amendment which it has only just seen. So, we will consider the amendment and may support it in the upper house if we find it to be meritorious.

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

CHILD SEX OFFENDERS REGISTRATION BILL

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

No. 1. Clause 4, page 7, line 24—After 'offence' insert:

(including an order or direction requiring a person to enter into a bond)

No. 2. Clause 9, page 11, line 14—Delete 'under subsection (1)(a), (b) or (c)' and substitute:

to be made by a court that is dealing with a person for an offence

No. 3. Clause 9, page 11, line 15—Delete 'the case of an order under subsection (1)(d) or subsection (2)' and substitute:

any other case

No. 4. Clause 67, page 35, lines 29 and 30—Delete 'unless the disclosure is made in accordance with the information disclosure principles set out in Schedule 2' and substitute:

unless—

(a) the disclosure is only of information of a prescribed kind and is made to a police officer for law enforcement purposes; or

(b) the disclosure is made in accordance with the information disclosure principles set out in Schedule 2.

No. 5. New clause, after clause 72—Insert:

72A—Investigation and report on electronic monitoring

(1) The Minister must, not more than 1 year after the commencement of this section, appoint an independent person to carry out an investigation and review concerning—

(a) systems available for electronic monitoring of persons; and

(b) whether the use of any such systems in this State would be of benefit for the purpose of monitoring the movements of registrable offenders or any particular classes of registrable offenders; and

(c) the feasibility of introducing requirements for the use of such systems in this State and the costs likely to be involved in the use of such systems.

(2) If the person appointed under subsection (1) is of the opinion that a trial of any systems available for electronic monitoring of persons is necessary or desirable for the purposes of the investigation and review, and advises the Minister of that opinion, the Minister must provide any assistance reasonably required for the conduct of such a trial.

(3) The person appointed under subsection (1) must present to the Minister a report on the outcome of the investigation and review not more than 2 years after the commencement of this section.

(4) The Minister must, within 12 sitting days after receipt of a report under this section, cause a copy of the report to be laid before both Houses of Parliament.

No. 6. Schedule 1, page 39, after line 19—Insert:

(1a) For the purposes of this Schedule, an offence occurred in *prescribed circumstances* if—

(a) the victim consented to the conduct constituting the offence; and

(b) either—

(i) the offender was, at the time of the offence, 18 years of age and the victim was not less than 15 years of age; or

(ii) the offender was, at the time of the offence, 19 years of age and the victim was not less than 16 years of age.

No. 7. Schedule 1, page 40, line 2—After 'intercourse)' insert:

other than an offence that occurred in prescribed circumstances

No. 8. Schedule 1, page 40, line 13—After '1935)' insert:

other than an offence that occurred in prescribed circumstances

No. 9. Schedule 1, page 41, line 3—After 'child' insert:

other than an offence that occurred in prescribed circumstances

No. 10. Schedule 1, page 41, line 5—After 'indecency)' insert:

other than an offence that occurred in prescribed circumstances

UPPER SOUTH EAST DRYLAND SALINITY AND FLOOD MANAGEMENT (EXTENSION OF PERIOD OF SCHEME) AMENDMENT BILL

Received from the Legislative Council and read a first time.

ADJOURNMENT

At 6.13 p.m. the house adjourned until Wednesday 15 November at 2 p.m.